Sr. No. 04

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Bail App. No. 235/2025
Date of Pronouncement:26.12.2025
Date of uploading:-26.12.2025

Mushtaq Ahmed .....Appellant(s)/Petitioner(s)

Through: Mr. Raghubir Singh, Advocate
Appellant present in person.

Vs

UT of J&K ..... Respondent(s)

Through: Mr. Bhanu Jasrotia, GA

Coram: HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE

ORDER
26.12.2025

1. Apprehending arrest in FIR No. 55/2015 dated 10.08.2015 registered at Police Station, Kandi, District Rajouri under Sections 420, 467, 468 & 471 RPC, the petitioner has approached this Court seeking bail in anticipation of his arrest.

2. To be brief, the allegation against the petitioner is that he along with co-accused fraudulently and dishonestly lured the complainant to arrange visa for his visit to Kuwait and in this regard, petitioner alleged to have been paid by the complainant cash amount also, but the petitioner in connivance with co-accused got prepared some passport with fake immigration stamp for PCC Clearance etc.

3. Precisely, on above allegations, the FIR was registered and investigation commenced, compelling the petitioner to approach this Court seeking bail apprehending arrest at the hands of the police. Accordingly, when the matter came up before the Court on 30.08.2025, the petitioner has been granted interim protection on following terms:-

> ***"Meanwhile, the petitioner in the event of his arrest, shall be released on bail on his furnishing a surety bond in the amount of Rs. 25,000/- and a bond of personal recognizance in the like amount, subject, however, to the following conditions that:-***
>
> *(i)* ***He shall appear before the investigating agency and co-operate as and when directed;***
>
> *(ii)* ***He shall not jump over bail and make an attempt to tamper with the prosecution evidence and coerce the prosecution witness and;***
>
> (iii) ***He shall not leave territorial jurisdiction without prior permission of this Court.***"

4. Respondent has filed objection and while narrating the factual backdrop of the accusation which led to the registration of the case and investigation, in categoric terms submitted that during the course of investigation, the petitioner has co-operated in the investigation and after interim protection granted by the High Court, all the formalities have been completed.

5. Mr. Bhanu Jasrotia, learned GA appearing for the respondent while making submissions categorically submitted that the petitioner has co-operated with the Investigating Officer and also did not violate any of the conditions of his interim protection granted by this Court vide order dated 30.08.2025.

6. It is trite that the primary object of arrest in criminal cases is to secure the presence of accused during prosecution/trial/prevention of further offences etc., however, the power to arrest should not be exercised in routine or mechanically as object to exercise this power is not to harass. The general factors which may prevail with the Investigating Officer to curtail the liberty may be to prevent the escape of the accused, tampering with evidence, repetition of crime.

7. In **Naresh Kumar Mangla Vs. Anita Aggarwal** reported as **(2021) 15 SCC 777**, the Court while considering an application for grant of anticipatory bail has held, "in Siddharam Satlingappa Mhetre Vs. State of Maharashtra and ors. reported as (2011) 1 SCC 694, as under:-

> ***"112. […]***
>
> ***(i) the nature and gravity of the accusation and the exact role of the accused;***
> ***(ii) the antecedents of the petitioner including whether the accused has previously undergone imprisonment on a conviction by a court in respect of a cognizable offence;***
> ***(iii) the possibility of the petitioner fleeing from justice;***

> ***(iv) the likelihood of the accused repeating similar or other offences;***
> ***(v) whether the accusations have been made only with the object of injuring or humiliating the petitioner by arresting them;***
> ***(vi) the impact of the grant of anticipatory bail particularly in cases of magnitude affecting a large number of people;***
> ***(vii) The court must carefully evaluate the entire material against the accused. The court must also clearly comprehend the exact role of the accused in the case. Cases in which the accused is implicated with the help of Sections 34 and 149 of the Penal Code, 1860 the court should be considered with even greater care and caution because overimplication in such cases is a matter of common knowledge and concern;***
> ***(viii) While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors, namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;***
> ***(ix) the reasonable apprehension of tampering of the witnesses or apprehension of threat to the complainant;***
> ***(x) frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.***

8. Hon'ble Supreme Court in **Sushila Aggarwal and ors. Vs. State (NCT of Delhi) and anr.** reported as **(2020) 5 SCC 1** held that that duration of an anticipatory bail order does not end normally at the time and stage when the accused is summoned by the Court, or when the charges are framed, but can continue till the end of the trial.

9. Keeping in view the aforesaid parameters, and particularly considering that there is no statutory bar in granting the bail, coupled with the fact that the petitioner

has duly cooperated with the investigating agency and has not violated any of the conditions subject to which he was ordered to be admitted to interim bail in the event of his arrest, the Court finds that, in the absence of any countervailing circumstances warranting the formal arrest of the petitioner, a case is made out for bail to the petitioner in anticipation of his arrest.

10. In view of the above, this petition is allowed. In the event of arrest of the petitioner, he is directed to be released on bail in the anticipation of his arrest on the following conditions:-

(i) That the petitioner shall furnish personal bond to the tune of Rs. 50,000/- and one surety of the like amount before the Investigating Officer;

(ii) That the petitioner shall cooperate with the investigation and shall appear before the Investigating Officer, as and when required;

(iii) That the petitioner shall attend the trial without fail as and when it commenced.

(iv) That the petitioner shall not influence the prosecution witnesses during the course of investigation or thereafter in any manner; and

(v) That the petitioner shall not leave the territorial limits of Union Territory of J&K without the permission of the Investigating Officer.

(vi) That in case any statement made by the petitioner which leads to the disclosure in terms of Section 27 of the Evidence Act, the petitioner shall be deemed to have been in police custody for purpose of admissibility of disclosure statement only.

11. Petition stands disposed of accordingly**.**

(Shahzad Azeem)
Judge

Jammu
26.12.2025
Tarun/PS