HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Bail App. No.94/2026

Reserved on: 21.10.2026
Pronounced on: 23.10.2026.
Uploaded on: 23.10.2026
Operative part or full judgment: **Full**

1. Ikram Tahir (23 years)
S/O Mohd Tahir
2. Saira Khatoon (44 years)
W/O Mohd Tahir
Both R/O Village Banola,
Tehsil Mendhar
District Poonch …Petitioner(s)

Through: Mr. Mohd Avais Chowdhary, Adv.

Vs.

1. **Union Territory of Jammu & Kashmir**
through Incharge Police Station Mandi,
Poonch.
2. Halima Kouser,
D/O Mukhtar Ahmed,
R/O Gagrian Maidan,
Mandi,
District Poonch …Respondent(s)

Through: Mr. Sumeet Bhatia, GA vice
Mr. Eishaan Dadhichi, GA for R-1.
None for R-2.

CORAM: HON'BLE MR. JUSTICE M. A. CHOWDHARY, JUDGE

JUDGMENT

1. The applicants, through the medium of this application, seek grant of bail, in anticipation of their arrest, in a case registered vide FIR No. 60/2025 on 12.07.2025, at Police Station Mandi, for the commission of offences, punishable under Sections 49 & 64 of the Bharatiya Nyaya Sanhita, 2023 (for short, "BNS"), asserting, therein, that they have been falsely implicated, in the case, by the complainant/respondent no.2, by leveling false allegations. The applicants have also called in question the order dated **10.02.2026,** passed by

the Sessions Court, Poonch, whereby, their application, for grant of anticipatory bail, came to be rejected.

2. Brief facts, as set up, which led to the filing of this application are that on 24.01.2024, respondent no.2/complainant namely Haleema Kouser D/O Mukhtar Ahmed R/O Gagrian, Tehsil Mandi District Reasi, lodged a written application/complaint against some persons including the petitioners, herein, in Police Station Mandi, stating therein that she and petitioner no.1 Ikram Tahir, had been in relationship for about one and a half years; that petitioner no.1 exploited her physically on the pretext/false promise of marriage; that petitioner no.1 used to come to her house between November 2024 and June 2025 and developed sexual relations on multiple times; that, when on 20.02.2025, her parents proposed her marriage with another boy, she informed petitioner no.1 about the same, who assured the complainant that only he will marry her; that subsequently, he deliberately started avoiding her and finally severed all links; however, when the marriage of the complainant was fixed for 26.06.2025 and wedding cards were already distributed, the petitioner no.1, all of a sudden, contacted the complainant through phone and asked her to meet him at Poonch Bus Stand on 18.06.2025 for marriage; that when she went there on the proposed date, he was not there, however, she got a number of calls from petitioner no.2, that she along with her son were coming to take her for marriage and was asked to stay at Women Cell and not to return home; that after waiting for a long time at Women Cell, she was sent to One Stop Centre, Poonch under legal procedure, where she was kept for about 9+3 days and finally was handed over to her parents.

3. In this backdrop, complainant approached Police Station Mandi alleging that she was sexually assaulted under the pretext of false promise of

marriage, her parents were made to bear unnecessary expenses in the name of marriage, that, on the basis of this complaint, FIR No.60/2025 came to be lodged at P/S Mandi and investigation was set in motion; that the petitioners filed application U/S 482 BNSS, for grant of bail, in anticipation of arrest, in their favour, before the Sessions Court, Poonch, who, vide, its order dated 10.02.2026, rejected the same. It is, in this backdrop, the petitioners have approached this court seeking bail, in anticipation of their arrest, in case, FIR No.60/2025, registered at P/S Mandi, Poonch, for commission of offences punishable under Sections 49 & 64 BNS.

4. Pursuant to notice, objections stand filed on behalf of respondent No.1-SHO, P/S Mandi, stating therein that during the course of investigation, it was established that about one and a half years ago, complainant/victim came into contact with petitioner no.1, developed a relationship; that during the course of relationship, petitioner no.1 assured complainant that he would marry her; that on one occasion, petitioner no.1 along with his family members came to the residence of the complainant for seeking her hand in marriage, however, his proposal was not accepted by the family of the complainant; that, after some days, petitioner no.1 again came in the dark, and with consent, successfully coaxed the complainant to have intercourse with him and also on two-three more occasions, when there was no one present in the house of the complainant; that when complainant asked the petitioner no.1 to materialize his promise, he reneged and betrayed her trust; that during the course of investigation, offence U/S 69 BNS stands established against petitioner no.1.

5. Learned counsel appearing for the applicants, while arguing the case and seeking the applicants' enlargement on bail, urges that the applicants are

accused of having committed offences punishable U/Ss 49 and 64 BNS, but the fact of the matter is that during the course of investigation, none of these offences was proved against the petitioners; that the impugned FIR has been lodged by respondent no.2 only to harass the petitioners and to malign the reputation of their family; that there is a delay in lodging the FIR as the same was lodged on 12.07.2025, whereas the occurrence was alleged to have taken place on 18.06.2025. Lastly, it is prayed that the application be allowed and they be admitted to bail. In support of his contentions, learned counsel appearing for the petitioners has relied upon judgment of the Apex Court in *'Gautam Navlakha v. National Investigation Agency'* reported as **AIR ONLINE 2021 SC 246**.

6. Mr. Sumeet Bhatia, GA, learned counsel appearing for the respondent No.1, ex-adverso, opposed the present application and contended that the applicants do not deserve the concession of bail, as they are involved in serious offences; that petitioner no.1 has committed repeated acts of sexual exploitation of the victim on the false promise of marriage; that the petitioners cannot seek grant of bail in anticipation of their arrest as a matter of right and considering the seriousness of allegations, possibility of tampering with evidence and likelihood of fleeing from justice, their application be rejected; that for offence U/S 64 BNS, of which the applicant no. 1 alleged to have committed, is punishable, with imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life; for offence U/S 49 BNS, the punishment provided is same as the punishment for offences committed U/S 64 BNS for abetment, thus attracts the rigors of Section 437 CrPC, hence, the applicants, cannot be admitted to bail. He, further, argued that the applicants, at the most, pray for direction to the trial court, for timely

conclusion of trial. Lastly, it is prayed that the bail application be out-rightly rejected and a direction be issued to the Investigating Officer to conclude the investigation and present the charge sheet, before the competent court of law, so that, the culprits be brought to justice.

7. Heard learned counsel for the parties, perused the material available on record and considered the matter.

8. Hon'ble the Supreme Court, in a catena of judgments, has laid down principles for consideration for grant of anticipatory bail and as to how to exercise the power while granting bail.

(i) In Bhadresh Bipinbhai Sheth Vs. State of Gujarat & Anr, reported as **2016 (1) SCC (Crl) 240**, the Supreme Court while granting anticipatory bail, for offence under Section 376 IPC held:

> *"Before we proceed further, we would like to discuss the law relating to grant of anticipatory bail as has been developed through judicial interpretative process. A judgment which needs to be pointed out is a Constitution Bench Judgment of this Court in the case of Gurbaksh Singh Sibbia and Others v. State of Punjab [1980 2 SCC 565]. The Constitution Bench in this case emphasized that provision of anticipatory bail enshrined in Section 438 of the Code is conceptualized under Article 21 of the Constitution which relates to personal liberty. Therefore, such a provision calls for liberal interpretation of Section 438 of the Code in light of Article 21 of the Constitution. The Code explains that an anticipatory bail is a pre-arrest legal process which directs that if the person in*

whose favour it is issued is thereafter arrested on the accusation in respect of which the direction is issued, he shall be released on bail. The distinction between an ordinary order of bail and an order of anticipatory bail is that whereas the former is granted after arrest and therefore means release from the custody of the police, the latter is granted in anticipation of arrest and is therefore, effective at the very moment of arrest. A direction under Section 438 is therefore intended to confer conditional immunity from the 'touch' or confinement contemplated by Section 46 of the Code."

(ii) The Hon"ble Apex Court, while considering the scope of bail in anticipation of arrest, involving serious criminal offences, in case titled "Ajwar Vs. Waseem & Anr" connected with other cases reported as **2024 (6) Scale 461** in paragraph 26 held as under:

***"26**. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, to role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and overall desirability of releasing the accused on bail."*

9. On a consideration of the facts and circumstances of the case, particularly, the consensual relationship claimed by the complainant herself

and the failure of the endeavor of the petitioner No.1 and the complainant to mature their relationship, for the reason that their families did not agree to the marriage and without commenting upon the merits of the case, lest the same shall impact the trial, if any, of the case, this Court is of the considered opinion that petitioner no.1, who is stated to be main accused and petitioner no.2, being mother of the petitioner no.1, alleged to have abetted the commission of offences punishable U/S 69 of BNS, are entitled to be admitted to bail in anticipation of their arrest.

10. Having regard to the decisions rendered by Hon'ble Supreme Court in the cases (supra), the allegations and objections filed by the non-applicant and considering the nature of the offences with which the applicants have been charged of and also viewing that bail is the rule and jail is the exception, this Court is of the considered opinion that the applicants are entitled to be admitted to bail. It will be in the interest of justice if the interim bail granted to the applicants is made absolute.

11. In the aforesaid backdrop of the matter, the law discussed hereinabove and in view of the facts and circumstances of the case in hand, the bail application is allowed and it is provided that in the event of their arrest, they shall be released on bail, subject to the following conditions, that the petitioners shall:

(i) furnish personal as well as surety bonds of an amount of Rs. 50,000/- each, to the satisfaction of the SHO, Police Station concerned.

(ii) fully cooperate with the Investigating Officer of the case as and how directed;

(iii) not leave the UT of J&K, without permission from the SHO, Police Station concerned, during investigation;

(iv) not, in any manner, attempt to frustrate the investigation or tamper with the prosecution evidence; and

12. The bail application is, thus, **allowed**.

(M. A. CHOWDHARY)
JUDGE

Jammu
23.10.2026.
Raj Kumar

Whether the order is reportable: Yes / No

HIGH COURT
JAMMU & KASHMIR AND LADAKH

Raj Kumar
2026.10.23 17:24
I attest to the accuracy and
integrity of this document