IN THE HIGH COURT OF JAMMU& KASHMIR AND LADAKH AT SRINAGAR

Bail App No. 114/2026
CrlM No. 1165/2026 CrlM No. 984/2026

Reserved On: 29, October, 2026
Pronounced On: 20th of November, 2026
Uploaded on: 20th of November, 2026

Owais Manzoor Mir (28 years)
S/o Manzoor Ahmad Mir
R/o Pethbugh, Dialgam, Anantnag, Kashmir
Presently logged in Central Jail,
Srinagar on judicial remand.

… Applicant(s)

Through: -
Mr, Tasaduk Hussain Reshi, Advocate.

V/s

Union Territory of Jammu and Kashmir through
Station House Officer Police Station Harwan, Srinagar,
Kashmir and Anr.

… Respondent(s)

Through: -
Ms. Nadiya Abdullah, AC vice Mr. Mohsin S. Qadiri, Sr. AAG.
Mr. Shahzada Saleem, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

(ORDER)

1. Through the medium of the instant bail petition, having been filed in terms of the provisions of Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS for short), bail on behalf of the applicant/accused in criminal case FIR No. 25/2026 of Police Station Harwan, Srinagar, registered under Sections 69, 316(2), 318(2), 319(2) and 125(a) of the Bharatiya Nyaya Sanhita, 2023 (BNS for short), has been sought on the grounds, *inter alia*, that he is innocent and has not committed the alleged offences in terms of the ingredients of the same. That he is 28-years-old Indian citizen, domiciled in the Union Territory of Jammu and Kashmir and deeply rooted in the society. That he is a bona fide research scholar enrolled in the Ph.D. (full-time)

program in the Department of Management Studies at Islamic University of Science and Technology (IUST), Awantipora, Kashmir, since the year 2022. That he has clean antecedents and has never been involved in any criminal activity. That the complainant is a matured adult lady of 33 years of age, doing business work, who has travelled internationally and is fully capable of understanding the nature and consequences of her actions. That from November 2024 to May 2026, which involves a period of over eighteen months, he and the complainant maintained a mutual relationship. That during the aforesaid period, they met in the United Arab Emirates (UAE), travelled together to multiple locations, including Dubai, Oman, Delhi and Kashmir, and stayed together at Rayaan Guest House, Zein Lane, Shalimar, Srinagar, from 28-01-2026 to 06-02-2026. That the complainant filed a complaint dated 16-05-2025, almost after a period of two years since they had maintained a relationship, whereby she demanded some money back which she had allegedly paid to him. That the complainant herself admitted in her complaint dated 16-05-2025 that she was in a consensual relationship with him with the consent of her parents. That on 17-05-2026, at approximately 08.00 a.m., police personnel from Police Station Harwan, Srinagar, i.e., respondent No. 1, forcibly entered his residence at Pethbugh, Dialgam, Anantnag, and took him into custody in violation of the provisions of Section 48(1) of the BNSS. That he filed a bail application before the Court of Learned 3rd Additional Sessions Judge, Srinagar, on 19-05-2026, pleading his innocence, but the learned Court below dismissed

the same vide order dated 16-06-2026 on the main ground that the allegations levelled against him, as per the complaint, seem to be *prima facie* established. That the learned Court below mainly relied on the Investigating Officer's report to the effect that the investigation in the case FIR was at the final stage, the digital evidence was yet to be verified and analysed, and the potency test of the petitioner was yet to be conducted. That the learned Court below, in rejecting his bail, was influenced by its opinion that the offences alleged against him are anti-social, being crimes against women. That none of the offences alleged against him carry a sentence of death or imprisonment for life in alternative, thereby attracting any statutory bar in terms of the provisions of Section 480 BNSS. That out of the offences alleged against him, the offence under Section 69 BNS provides for a maximum punishment of ten years. That the complainant's allegations of sexual intercourse upon her by the petitioner under a false promise of marriage are totally unsupported and uncorroborated. That the medical examination of the complainant conducted during the investigation of the case at Government Lalla Ded Hospital, Srinagar, does not confirm any injuries on her to support any forcible sexual assault. That the complainant's allegation of siphoning of Rs. 15 lacs is also unsupported by any bank record. That he is a regular research scholar at IUST, Awantipora, and as such, no question of alleged flight risk arises in the case. That his continued detention since the date of his arrest on 17-05-2026 tantamounts to withholding of his fundamental right to personal liberty granted under Article 21 of the

Constitution of India. That it is a settled legal position that bail is the rule and its denial an exception, especially in cases which do not carry sentences of death or imprisonment for life in alternative and where there is nothing on record to suggest that the accused is likely to misuse the concession of bail by tampering with the prosecution evidence or absconding at the trial. That an accused is presumed to be innocent till proved guilty at the trial and, as such, the petitioner's continued detention amounts to his pre-trial conviction. That Article 21 of the Constitution of India encompasses not merely the right to physical existence but the right to life with human dignity and all that goes along with it, including the right to education, vocation and self-development. That the prosecution materials, on closer examination, reveal that even in the light of the complainant's own statement, the offences alleged against him are not at all made out. That he is deeply rooted in the society and, as such, there is no question of misusing the concession of bail if granted in his favour. That he has not filed any other bail application before the Hon'ble Supreme Court of India or even before this Court and that he shall abide by any conditions that may be imposed by this Court.

2. The complainant came to be arrayed as respondent No. 2 in the bail petition vide order dated 28-07-2026 passed on the miscellaneous application, CrlM No. 1165/2026.

3. The respondent No. 1/State has vehemently opposed the instant successive bail application on the grounds that the same is misconceived, devoid of any merit and, as such, liable to be dismissed.

That the petitioner/accused is involved in the commission of heinous and serious offences against the complainant and the Investigating Officer has collected material evidence in support of the allegations against the petitioner. That further investigation in the case is underway. That the petitioner/accused is involved in the commission of offences punishable under Sections 69, 316(2), 318(2) and 319(2) of the BNS, arising out of case FIR No. 25/2026 registered with Police Station Harwan, Srinagar. That the petitioner/accused, after deceitfully making a false promise of marriage, exploited, blackmailed and cheated the complainant. That he practised fraud upon the complainant by impersonation and deception. That the complainant, in her statements recorded in terms of the Provisions of Sections 180 and 183 of the BNSS, fully substantiated and corroborated the case against the petitioner. That the medical examination of the victim/complainant was conducted after obtaining her consent, and requisite samples were collected and forwarded to the Forensic Science Laboratory for expert opinion. That the DNA sampling of the petitioner/ accused was also collected and forward to FSL for biological examination. That the investigation has also yielded material in the form of forensic and electronic devices and other articles. That the passport of the petitioner was seized for verification of his travel details. That although the final report/charge sheet was filed before the Court on 09-07-2026, yet further investigation in the case is going on. That the petitioner/accused, if released on bail at this stage, is likely to misuse the concession by tampering with the prosecution evidence and by

absconding at the trial. That the petitioner cannot claim an indefeasible right to bail merely on the ground of the presentation of the charge sheet. That the case involves continuing further investigation, with important forensic and electronic evidence yet to be received and submitted to the Court through a supplementary report. That the material collected during the investigation *prima facie* supports the prosecution case in respect of the offences registered against the petitioner. That the offences committed by the petitioner/accused are very heinous and anti-social and, as such, he does not deserve the concession of bail. That it is a settled legal position that consideration of bail cannot be made by a competent Court on some isolated grounds, but the Hon'ble Apex Court and various other High Courts of the country, including this Court, have time and again been stressing for consideration of a verity of circumstances and grounds while considering a bail application, including the heinousness of the crime committed, seriousness of allegations, the nature of evidence, the likelihood of the accused misusing the concession of bail, the reasonable apprehension of the witnesses being tampered with at the trial, and the impact of the crime on the society and the State. That the petitioner/accused has, by practising fraud and deception, spoiled the soul of the prosecutrix/complainant by subjecting her to sexual intercourse under a false promise of marriage, with further siphoning of money from her account.

4. I have heard the learned counsel for the petitioner/accused and the Respondent No.1/State, who almost reiterated, their exhaustive grounds respectively taken in their pleadings.

5. However, respondent No. 2/complainant filed an affidavit, duly attested, through her counsel, Mr. Shahzada Saleem, Advocate, on 23-10-2026, endorsing on oath therein that she is the complainant in case FIR No. 25 of 2026 of Police Station Harwan, registered under Sections 69, 316(2), 318(2), 319(2) and 125(a) of the BNS, and stands impleaded as respondent No. 2 in this bail application vide order dated 28-07-2026. That she is fully aware of the facts and circumstances of the case and, as such, is competent to swear this affidavit. That after investigation, a charge sheet has been filed against the petitioner/accused under Sections 69, 316(2), 318(2), 319(2) and 125(a) of the BNS, which is pending before the Court of Learned 2nd Additional Sessions Judge, Srinagar ("Trial Court" for short). That with the intervention of some well-wishers, she and the petitioner/accused have amicably settled all their disputes, leading to the execution of a settlement deed dated 23-10-2026 at Srinagar. That she has now left no grievance against the petitioner/accused and, as such, does not wish the prosecution to be pursued. That she has also no objection if the petitioner/accused Owais Manzoor Mir is enlarged on bail by this Court.

The Advocate concerned, namely, Mr. Shahzada Saleem, also appeared before the Court in the matter on behalf of respondent No. 2/complainant on 29-10-2026 and submitted that a mutual settlement

has taken place between the petitioner/accused and respondent No. 2/complainant, who have also approached the learned trial Court for permission to compound the offences in the criminal case. That the learned counsel also submitted in the open Court that respondent No. 2/complainant has no objection in case the instant bail application is allowed.

6. I have also gone through the order dated 16-10-2026 passed by the learned 3rd Additional Sessions Judge, Srinagar, while dismissing the earlier bail petition of the petitioner/accused.

7. In the facts and circumstances of the case, the Court is of the opinion that it may meet the ends of justice in case the instant successive bail petition is allowed and the petitioner/accused is admitted to bail in the instant case FIR No. 25/2026 of Police Station Harwan, Srinagar, subject to some reasonable terms and conditions.

None of the offences alleged against the petitioner/accused carry a sentence of death or imprisonment for life in alternative, thus not attracting the statutory bar in terms of the provisions of Section 480(1)(i) of the BNSS. The petitioner/accused and the complainant/respondent No. 2 are reported to have entered into a mutual settlement, and the latter has filed an affidavit in this case after being impleaded as party respondent No. 2, wherein she has stated on oath that she has mutually settled the dispute with the petitioner/accused and, as such, has no objection in case he is enlarged on bail in the case.

8. The learned counsel for the petitioner/accused, during his arguments, *inter alia,* contended that the offences alleged against the petitioner/accused are not made out in the facts and circumstances of the case, as the two were in a consensual relationship for the last more than one and a half years. He further contended that respondent No. 2/complainant is a mature adult lady, fully competent to know the nature and consequences of her actions and, as such, she cannot, in the facts and circumstances of the case, be believed to have been cheated, deceived and subjected to sexual intercourse, as alleged. The learned counsel for the petitioner/accused, in support of his contentions, during his arguments, placed reliance on the authorities/judgments cited as:

    i. *Pradeep* Kumar Kasarwani v. State of Uttar Pradesh and Another, 2025 SC 1667.
    ii. Sanjay @ Sanjay Kashyap v. State of UP and Another, 2026 Allahabad 530.
    iii. Mahesh Damu Khare vs. State of Maharashtra2024 Supreme (online) SC 1220 2024 INSC 897.
    iv. Ankush Kumar Mahato v. Government of *NCT of Delhi*.

9. The Hon'ble High Court of Judicature of Allahabad in Sanjay @ Sanjay Kashyap- petitioner vs. State of U.P. and another- Opposite Parties 2026 Supreme (ALL) 530 under similar circumstances *inter alia* observed, "each and every promise of marriage would not be considered as a fact of misconception for the purpose of consensual sexual intercourse unless it is established that such promise of marriage was a false promise of marriage on the part of accused since the beginning of such relationship. Once a promise was made in good

faith and subsequently after change of circumstances when the relationship between the parties went wrong for various other reasons, such breach of promise would not be treated as misconception for the purpose of consent of establishing physical relationship. A woman of competent age, having sufficient understanding of the physical activities in which she is involved on the basis of a promise of marriage, understands the risks associated with such physical relationship as there is a significant difference between the marriage and a mere promise of marriage. The court has seen in a large number of cases, that there is a growing trend that consensual relationships going for a prolonged period, upon turning sour, are sought to be criminalized by invoking criminal jurisprudence.

10. The Hon'ble Supreme Court in Mahesh Damu Khare vs. State of Maharashtra2024 Supreme (online) SC 1220 2024 INSC 897 at Para's 27, 28 and 29 held that: -

> *27. Thus, from the above it appears that it is more of an extra-marital affair during the aforesaid period without any insistence by the complainant for getting married to the appellant. The fact that the complainant continued to have a physical relationship for a long time without any insistence on marriage would indicate the unlikelihood of any such promise made by the appellant for marrying her and it rather indicates that the relationship was a consensual one.*
>
> *In our opinion, the longer the duration of the physical relationship between the partners without protest and insistence by the female partner for marriage would be indicative of a consensual relationship rather than a*

relationship based on false promise of marriage by the male partner and thus, based on misconception of fact.

28 Moreover, even if it is assumed that a false promise of marriage was made to the complainant initially by the appellant, even though no such cogent evidence has been brought on record before us to that effect, the fact that the relationship continued for nine long years, would render the plea of the complainant that her consent for all these years was under misconception of fact that the Appellant would marry her implausible. Consequently, the criminal liability attached to such false promise would be diluted after such a long passage of time and in light of the fact that no protest was registered by the complainant during all those years. Such a prolonged continuation of physical relationship without demurral or remonstration by the female partner, in effect takes out the sting of criminal culpability and neutralizes it.

29. It will be very difficult to assume that the complainant who is otherwise a mature person with two grown up children, was unable to discover the deceitful behaviour of the appellant who continued to have sexual relationship with her for such a long period on the promise of marriage. Any such mendacious act of the appellant would have been exposed sooner without having to wait for nine years. The inference one can draw under the circumstances is that there was no such false promise made to the complainant by the appellant of marriage by continuing to have physical relationship so as to bring this act within the province of Section 376 IPC and therefore, there was no vitiation of consent under misconception of fact.

11. Admittedly, in case of non-bailable offences which do not carry a sentence of death or imprisonment for life in alternative, bail is a rule and its denial an exception especially in cases where firstly the custodial questioning of an accused is not imperative for the logical and scientific conclusion of the investigation and secondly where there is nothing on record to show that the accused, if admitted to bail, will

misuse the concession by tampering with the prosecution evidence, by non-cooperation and association with the investigating agency and also by absconding at the trial.

12. Apart from the statutory bar, if any, two paramount considerations viz. likelihood of accused fleeing from justice and tampering with the prosecution evidence relate to the ensuring of a fair trial of the case in a court of law. It is essential that due and proper appreciation and weightage should be bestowed on these factors apart from others. The grant of bail or the denial of the same falls within the purview of the judicial discretion meant to be exercised on sound legal principles upon the logical interpretation and application of the same in the given facts and circumstances of the case. The necessary arrests subject to the law of bails as provided under the Code, BNSS and the provisions of different special Legislations are permissible under the Constitution of our Country by way of a reasonable exception to the fundamental right to liberty guaranteed under Article 21 of the Constitution and the mandate of the provisions of Article 22 of the Constitution is meant to be followed upon making any such necessary arrests.

13. In **State of Rajasthan Jaipur Vs. Balchand AIR 1977 S.C. 2447, t**he Hon'ble Apex Court has held, "basic rule may perhaps be tersely put as bail not jail, except where there are circumstances of fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating the

witnesses and the like, by the petitioner who seeks enlargement on bail from the court.

14. It is also well settled that the bar imposed under section 480 of BNSS on the exercise of the discretion in the matters of bail subject to proviso contained in the section, is confined to the offences carrying a sentence of death or imprisonment for life in alternative and the offences carrying a sentence of imprisonment for life disjunctive of death sentence are exempted from the embargo.

15. No single rule or a golden litmus test is applicable for consideration of a bail application and instead some material principles/guidelines are needed to be kept in mind by the Courts and the Magistrates for consideration of a bail application especially including: -

i. The judicial discretion must be exercised with the utmost care and circumspection;
ii. That the Court must duly consider the nature and the circumstances of the case;
iii. Reasonable apprehension of the witnesses being tampered;
iv. Investigation being hampered or
v. The judicial process being impeded or subverted.
vi. The liberty of an individual must be balanced against the larger interests of the society and the State.
vii. The court must weigh in the judicial scales, pros and cons varying from case to case.
viii. Grant of bail quo an offence punishable with death or imprisonment for life is an exception and not the rule;
ix. The court at this stage is not conducting a preliminary trial but only seeking whether there is a case to go for trial;
x. The nature of the charge is the vital factor, the nature of evidence is also pertinent, the punishment to which the party may be liable also bears upon the matter and the likelihood of the applicant interfering with the witnesses or otherwise polluting the course or justice, has also a bearing on the matter.
xi. The facts and circumstances of the case play a predominant role.

16. The Hon'ble Apex Court in **Gur Bakash Singh Sibbia Vs. State of Punjab AIR 1980 S.C. 1632**, referred to the following extract from the American Jurisprudence having bearing on the subject of bail,

> "Where the grant of bail lies within discretion of the court, granting or denial is regulated to a large extent, by the facts and circumstances of each particular case. Since the object of detention order/imprisonment of the accused is to secure his appearance and submission to jurisdiction and the judgment of the court, the preliminary enquiry is whether a recognizance or bond would yield that end. It is thus clear that the question whether to grant bail or not, depends for its answer upon a Variety of circumstances, the cumulative effect of which must enter into the judicial verdict. Any one single circumstance cannot be treated as of universal validity for justifying the grant or refusal of bail".

17. It has been laid down by the Hon'ble Supreme Court in **Sanjay Chandra vs. Central** Bureau **of Investigation AIR 2012 SC 830** at Para 14 of its Judgment as under:-

> 14) In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventive. Deprivation of liberty must be considered a punishment, unless it can be required to ensure that an accused person will stand his trial when called upon. The courts owe more than verbal respect to the principle that punishment beings after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some un-convicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, necessity is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be

punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances. Apart from the question of prevention being the object of a refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an un-convicted person for the purpose of giving him a taste of imprisonment as a lesson."

18. The Hon'ble Supreme Court in **Dataram Singh vs State of UP and Anr. 2018 3 SCC 22** has held that even if grant or refusal of bail is entirely the discretion of a Judge, such discretion must be exercised in a judicious manner and in a humane way observing as follows:

> "2. There is no doubt that the grant or denial of bail is entirely the discretion of the judge considering a case but even so, the exercise of judicial discretion has been circumscribed by a large number of decisions rendered by this court and by every High Court in the country. Yet, occasionally there is a necessity to introspect whether denying bail to an accused person is the right thing to do on the facts and in the circumstance of a case.
>
> 3. While so introspecting, among the factors that need to be considered is whether the accused was arrested during investigations when that person perhaps has the best opportunity to tamper with the evidence or influence witnesses. If the investigating officer does not find it necessary to arrest an accused person during investigations, a strong case should be made out for placing that person in judicial custody after a charge-sheet is filed. Similarly, it is important to ascertain whether the accused was participating in the investigations to the satisfaction of the investigating officer and was not absconding or not appearing when required by the investigating officer. Surely, if an accused is not hiding from the investigating officer or is hiding due to some genuine and expressed fear of

being victimized, it would be a factor that a judge would need to consider in an appropriate case. It is also necessary for the judge to consider whether the accused is a first-time offender or has been accused of other offences and if so, the nature of such offences and his or her general conduct. The poverty or the deemed indigent status of an accused is also an extremely important factor and even Parliament has taken notice of it by incorporating an Explanation to Section 436 of the Code of Criminal Procedure, 1973. An equally soft approach to incarceration has been taken by Parliament by inserting Section 436A in the Code of Criminal Procedure 1973."

19. In **Pankaj Jain vs Union of India and Anr. 2018 5 SCC 743,** the Hon'ble Supreme Court has held that the grant of bail has to be exercised compassionately. Heinousness of crime by itself cannot be the ground to out rightly deny the benefit of bail if there are other overwhelming circumstances justifying grant of bail. The Hon'ble Apex Court in its Judgments cited as **Siddharam Satlingappa** Mhetre **Vs. State of Maharastra AIR 2011 SC 312 and Sushila Aggarwal and Ors. Vs. State (NCT of Delhi) and Anr 2020 SC online 98**, has interpreted law even on the subject of anticipatory bail with a very wide outlook and while interpreting concept of liberty guaranteed under Article 21 of the Constitution of our Country in a flexible and broader sense.

20. This Court in its opinion is fully fortified with the authoritative law laid down by the Hon'ble Apex Court cited as **Sanjay Chandra Vs. Central Bureau of Investigation, (2012) 1 SCC 40** in which the bail was granted to the appellant who was involved in economic offences. It is profitable to reproduce the relevant paras 24 and 25 of the judgment for ready reference: -

> "24. In the instant case, as we have already noticed that the "pointing finger of accusation" against the appellants is "the seriousness of the charge". The offences alleged are economic offences which have resulted in loss to the State exchequer. Though, they contend that there is possibility of the appellants tampering with the witnesses, they have not placed any material in support of the allegation. In our view, seriousness of the charge is, no doubt, one of the relevant considerations while considering bail applications but that is not the only test or the factor: the other factor that also requires to be taken note of is the punishment that could be imposed after trial and conviction, both under the Indian Penal Code and Prevention of Corruption Act. Otherwise, if the former is the only test, we would not be balancing the constitutional rights but rather "recalibrating of the scales of justice."
>
> "25. The provisions of Cr.P.C. confer discretionary juris-diction on criminal courts to grant bail to accused pending trial or in appeal against convictions, since the jurisdiction is discretionary, it has to be exercised with great care and caution by balancing the valuable right of liberty of an individual and the interest of the society in general. In our view, the reasoning adopted by the learned District Judge, which is affirmed by the High Court, in our opinion, is a denial of the whole basis of our system of law and normal rule of bail system. It transcends respect for the requirement that a man shall be considered innocent until he is found guilty. If such power is recognized, then it may lead to chaotic situation and would jeopardize the personal liberty of an individual."

21. In **Prahlad Singh Bhati v. NCT, Delhi, (2001) 4 SCC 280**, the Hon'ble Apex Court has laid down the special factors for taking into consideration while exercising the bail jurisdiction and the relevant para 8 of the said judgment is reproduced as hereunder for ready reference: -

> "8. The jurisdiction to grant bail has to be exercised on the basis of well-settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep

in mind the nature of accusations, the nature of the evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the court dealing with the grant of bail can only satisfy it (sic itself) as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."

22. The observations of the Hon'ble Apex Court laid down in **State of U.P. v. Amarmani Tripathi, (2005) 8 SCC 21** at para 18 of the judgment also deserve a needful mention:

> "18. It is well settled that the matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail [see Prahlad Singh Bhati v. NCT, Delhi and Gurcharan Singh v. State (Delhi Admn.)]. While a vague allegation that the accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show

that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused."

23. The Hon'ble Apex Court in Sanjay Chandra's case cited supra has *inter alia* held at para 40 of the judgment, "the grant or refusal to grant bail lies within the discretion of the Court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused. The primary purposes of bail in a criminal case are to relieve the accused of imprisonment, to relieve the State of the burden of keeping him, pending the trial, and at the same time, to keep the accused constructively in the custody of the Court, whether before or after conviction, to assure that he will submit to the jurisdiction of the Court and be in attendance thereon, whenever his presence is required."

24. As hereinbefore mentioned, the Hon'ble Apex Court in its judgments cited as **Siddharam Satlingappa Mhetre Vs. State of Maharastra decided on 02/12/2010, AIR 2011 SC 312 and Sushila Aggarwal and others vs. State (NCT of Delhi) and Another** decided **on January 29, 2020 by a larger bench 2020 SC online 98**, has interpreted law even on the subject of anticipatory bail with a very wide outlook and while interpreting the concept of liberty guaranteed under Article 21 of the Constitution of our country in a flexible and broader sense. It has been *inter alia* observed by the Hon'ble Apex Court in the aforesaid judgments that the exact role of the accused must be properly comprehended before arrest is made. "The inner urge

for freedom is a natural phenomenon of every human being. Respect for life and property is not merely a norm or a policy of the state but an essential requirement of any civilized society. Just as the liberty is precious to an individual, so is the society's interest in maintenance of peace, law and order."

25. The apprehension of the prosecution/ State can however be taken care by imposing some reasonable conditions to the bail order.

26. Thus, for the foregoing discussion, the application is **allowed** and the petitioner/ namely Owais Manzoor Mir S/o Manzoor Ahmad Mir R/o Pethbugh, Dialgam, Anantnag, Kashmir is admitted to bail in the instant FIR bearing No. 25/2026 of Police Station Harwan, Srinagar, registered under Sections 69, 316(2), 318(2), 319(2) and 125(a) of BNS 2023, subject to his furnishing of surety and personal bonds in the amounts of Rs. 2 lacs each (the surety bond of Rs. 2 lacs be furnished by two persons from amongst the relatives of the petitioner/ accused each to be liable in the amount of Rs. 1 lac) respectively to the satisfaction of the learned Trial Court of 2nd Additional Sessions Judge, Srinagar and the Superintended of Central Jail Srinagar.

This order shall however be subject to following conditions:

1. The petitioner/ accused shall remain punctual at the trial of the case and shall associate with the investigating officer in the course of further investigation, if any, going on.
2. The petitioners/accused shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case including the prosecution witnesses listed in the case, so as to dissuade

him/them from disclosing such facts to the court or to any police officer.

3. That the petitioners/accused shall not leave the limits of the UT of Jammu and Kashmir without the prior permission of the learned Trial Court.
4. The petitioner/ accused shall not repeat the commission of any crime.
5. The petitioner/ accused shall not confront complainant/ respondent No. 2 through any means whatsoever.
6. The petitioner/ accused shall surrender his passport if not already retained by the investigating agency in connection with the further investigation in the case, before the Trial Court.

27. In case the requisite surety bonds are furnished to the satisfaction of the learned Trial Court and duly attested, a formal release order shall be issued by the learned Trial Court directing the Superintendent of the Jail concerned to release the petitioner/accused from his custody in the instant case FIR No. 25/2026 of Police Station Harwan, Srinagar, after obtaining the personal bond to the tone of Rs. 2 lacs.

28. The learned Trial Court shall be fully competent to proceed against the petitioner/accused in terms of the provisions of Sections 491 & 492 of BNSS, in the event of violation of any of the bail conditions.

29. **Disposed of.**

(MOHD YOUSUF WANI)
JUDGE

SRINAGAR
20th of October, 2026
"Shoaib Javid"

i. Whether the judgment is speaking? Yes
ii. Whether approved for reporting? Yes