Serial No. 2
Regular Cause List

# HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

CrlA (NI) 11/2026 CrlM 1737/2026

**Imtiyaz Qadir Bhat and Another** …Petitioner(s)/Appellant(s).

Through: Mr. Salih Pirzada, Advocate with
Mr. Ubaid Mir, Advocate

**Vs.**

**Union Territory of J and K Th.**
**S.H.O. P/S Baramulla**

...Respondent(s).

Through: Ms Maha Majeed, Assisting Counsel vice
Mr. Mohsin Qadri, Sr. AAG.

**CORAM:**

**HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE**
**HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE**

**ORDER (ORAL)**

05.11.2026

1. This is an appeal by the appellants in terms of Section 21 of the National Investigating Agency Act, 2008 ['NI Act'] to throw challenge to the order dated 22nd August, 2026, passed by the Court of Special Judge, Baramulla (designated under UAPA Act, 1967), [the 'Trial Court'], whereby an application moved by the appellants for grant of bail in case FIR No. 208/2025 registered with Police Station, Baramulla for offences under Section 13 of UAPA Act, 1967, has been rejected.

2. Briefly stating the facts leading to the filing of this Appeal are that on 24th November, 2025, Police Station, Baramulla registered FIR No. 208/2025 upon receipt of credible and reliable information indicating that a Society operating under the name of Idar-e-Falah-U-Darien, Baramulla was involved in unlawful activities by installing donation boxes at various locations for collection of funds.

3. During the course of investigation, it surfaced that the managing body of the said Society had documented affiliations with two banned organizations namely Jamaat-e-Islami, Jammu & Kashmir and Tehreek-e-Hurriyat, Kashmir, both of which were organizations linked with unlawful activities.

4. The Investigating Officer (IO) visited the office of the Society where the office boy namely Shabir Ahmad Gojree S/o. Ab. Rahim Gojree, R/o. Tawheed Gunj, Baramulla was found present. The IO of the case prepared the site plan of the place of occurrence which was made part of the case FIR.

5. During the course of further investigation, it came to light that the aforementioned Society, which was presided over by Imtiyaz Qadir Bhat S/o. Gh. Qaadir Bhat R/o. Chandsooma Alamdar Colony and assisted by its Secretary-Saleem Hussain Makai S/o. Mohd Yousuf Makai R/o. Jalal. Sahib, Baramulla, was indulging in collecting donations for diverting the funds collected by such donations to promote the secessionist ideology.

6. A raid at the residence of Imtiyaz Qadir Bhat was conducted in which Seven Books and Two Mobile Phones and a Laptop were seized on the spot and, accordingly, the requisite seizure memos duly signed by Investigating Officer (IO) were prepared. The description of seized books; Tehreek-e-Azaadi Hindu-Musalmaan (Two Books), Shahadat-e-Haq, Tehreek-e-Wahdat-e-Jehad, Islam aur Zabt-e-Wiladat, Biography of Maulana Syed Abu Alaa Maududi and Pahari Ka Qaidi were recovered. Apart from these books, two mobile phones (1).

Redmi 13 MIUI along with SIM bearing No. 7006065808 (2). Mobile Redmi 14 MIUI Blue along with SIM bearing No. 7006630735 and Laptop type Dell INSPIRION, were also seized in the case.

7. Similar raids were also conducted at the residence of Secretary of the Society namely Saleem Yousuf Makai i.e. the appellant No. 2 from whom Seven (07) books were seized. The material was seized on spot in the presence of the Executive Magistrate under proper procedure. The investigating Officer after completing all the requisite formalities and collecting the evidence, presented the challan before the Trial Court. However, before the challan was presented and the investigation was mid-way, the appellants moved an application before the Trial Court for grant of bail on various grounds including that the evidence collected so far by the Investigating Officer was not sufficient to connect the appellants with the commission of the offences alleged against them. The Trial Court vide its order dated 31st January, 2026 rejected the bail application of the appellants primarily on the ground that the investigation was at infancy stage and the Investigating Officer was in the process of collecting more evidence including the FSL Report etc.

8. Feeling aggrieved, the appellants approached this Court by way of CrlA No. 06/2026.

9. The Division Bench of this Court after considering the rival contentions and perusing the material on record, came to the conclusion that the order passed by the Trial Court dated 31st January, 2026 on the bail application of the appellant was fully justified in the

facts and circumstances of the case. The Division Bench of this Court took note of the fact that the investigation in the matter was in progress and therefore, rejected the Bail Application at that stage being premature.

10. Without going into the merits of the controversy, the Division Bench vide its order dated 20th May, 2026, dismissed the Appeal with liberty to the appellants to move a fresh application for bail before the Trial Court after the chargesheet was submitted. This is how, when the chargesheet was submitted by the respondents, a fresh bail application was filed by the appellants.

11. The bail application has been rejected by the Trial Court in terms of the order impugned primarily for the reason that there was no substantial change in the circumstances since the rejection of earlier bail and, therefore, the successive bail application was not maintainable.

12. The Trial Court incidentally discussed and decided some other issues which perhaps were not relevant for considering the bail plea of the appellants. The trial Court, however, missed to discuss the bail plea of the appellants on merits and having regard to the laid down parameters for considering a bail plea in a non-bailable case. There is no dispute with regard to the fact that Section 43D of UAPA, 1987, is not attracted in the instant case as the appellants are charged for commission of the offences under Section 13 of the UAPA, 1987.

13. We are also in agreement with the Trial Court that, notwithstanding that the rigors of Section 43D are not attracted, the appellants have to

make out a case for grant of bail. The Trial Court, however, instead of addressing the bail application of the appellants on merits and giving its reasons in support of the order impugned, has denied the bail to the appellants only on the ground that there was no material change of circumstances since the rejection of the earlier bail application.

14. We have given our thoughtful consideration to the rival contentions and we are of the considered opinion that the bail application moved by the appellants is required to be considered on merits.

15. The finding of the trial Court that successive bail application was not maintainable, is not in consonance with law. The further investigation undertaken by the IO coupled with the presentation of the challan is itself the change in circumstances and, therefore, the fresh bail application, by that reason, was not barred.

16. True it is, that the rigors of Section 43D are not attracted in the case, yet the Trial Court is under an obligation to consider the bail application on its merits and in the light of the well settled legal parameters laid down by this Court for considering a bail plea of a person accused of non-bailable offences.

17. For the foregoing discussion, we allow this Appeal and set-aside the impugned order. The matter is remitted back to the Trial Court for considering the Bail Application afresh on merits and in the light of the observations which we have made hereinabove.

18. We may, however, clarify that whatever we have stated in this order is only confined to the disposal of this petition and shall not be construed as a final expression of opinion by this Court on the merits of the case.

19. The Trial Court shall proceed to dispose of the Bail Application of the appellants as expeditiously as possible, preferably within a period of one month from the date, copy of this order provided before the Trial Court.

**(MOHD YOUSUF WANI)**
**JUDGE**

**(SANJEEV KUMAR)**
**JUDGE**

**SRINAGAR**
05.11.2026
*Shahid Manzoor*

(i) Whether the order is reportable? Yes/No.
(ii) Whether the order is speaking? Yes/No.

HIGH COURT
JAMMU & KASHMIR AND LADAKH