Serial No.05
Regular Cause List

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

CRM(M) No. 900/2026
CrlM No. 2045/2026

Tariq Ahmad Sheikh **…Petitioner(s)**

Through:
Mr. Sheikh Mushtaq, Advocate with
Mr. Uzair, Advocate.

V/s.

Union Territory of J & K and Ors **...Respondent(s)**

Through:
Mr. Jahangir Ahmad Dar, GA.

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

ORDER
13.11.2026

ORAL:

01. The Petitioner seeks quashing of FIR No. 105/2025 registered at Police Station Hajin, Bandipora for the alleged commission of offences under Sections 329 (3), 115 (2), 74, 351(2) of the Bharatiya Nyaya Sanhita, 2023 [BNS] and the charge-sheet filed thereon, which is pending before the learned Judicial Magistrate, Sumbal.

02. The principal ground urged by the Petitioner is that of alibi. It is submitted that the occurrence is alleged to have taken place on 29th of November, 2025, whereas the Petitioner was, on the said date, attached as Security Officer with the Special Secretary to Government, Department of Floriculture, Gardens and Parks, and was on active duty with him. Reliance is placed on certificates dated 11th of December, 2025 and 4th of February, 2026 issued by the said Officer, certifying that the Petitioner was on duty from 13th of November, 2025 to 11th of December, 2025 and on 28th of November, 2025 and 29th of November, 2025.

03. Learned Counsel for the Petitioner contends that once an official certificate records the Petitioner was on duty on the date of alleged occurrence, the registration of FIR against him is an abuse of the process of

law. In support, reliance is placed on the Judgment of the Hon'ble Supreme Court in "**Rahul V. State of Uttar Pradesh and Another"** reported in **"2026 LiveLaw (SC) 786"**.

04. The plea of alibi is essentially a defence of fact. Its acceptance at the stage of quashing of an FIR or charge-sheet under the inherent jurisdiction of this Court would require the material placed on record to be of such unimpeachable and conclusive character that the physical presence of the accused at the scene of occurrence stands excluded beyond the realm of reasonable doubt, rendering continuation of the proceedings an abuse of process. A certificate of mere "on duty" status, without more, does not ordinarily meet this threshold.

05. The certificates relied upon by the Petitioner, though issued by a responsible Officer, merely record that the Petitioner was on duty as Security Officer on the dates in question. They do not specify the place of duty, the hours of deployment, whether the duty was continuous or intermittent, or any circumstance which would render his presence at the place of occurrence impossible. In the absence of such particulars, the certificates do not carry the high probative value necessary to conclude, at the threshold, that the Petitioner could not have been present at the scene of alleged occurrence.

06. The Judgment of Hon'ble Supreme Court in **Rahul** (*supra*) is clearly distinguishable on facts and the question of probative value. In that case, the Appellant was a member of the Border Security Force, posted on the Indo-Bangladesh border. The certificate issued by his Commanding Officer specifically recorded that, at the relevant time, he was detailed on Dak-Runner duty for carrying official documents from the Frontier Headquarters, BSF, Meghalaya (Shillong) to New Delhi. The occurrence itself had taken place within the jurisdiction of Police Station Inchauli (District Meerut). The certificate thus established not only official duty, but a specific assignment that placed the Appellant at a distant location, rendering his presence at the scene of occurrence practically impossible. It was on the strength of this specific and location-sealing material that the Hon'ble Supreme Court intervened. At the same time, in the Judgment *supra*, co-accused parents have already earned the acquittal after full-

fledged trial on the self-same allegations and evidence, and the solitary additional allegation against the husband regarding telephonic dowry demands remained unsubstantiated by any CDR.

07. No such specificity or geographical impossibility is demonstrated by the certificates in the present case. A Security Officer attached with a civil servant may, depending on the nature and timings of duty, still have the opportunity to present at another place. The certificates, therefore, remain at the best *prima facie* material supporting the plea of alibi; they do not rise to the level of conclusive proof capable of extinguishing the Prosecution case at the stage of quashing.

08. Consequently, the plea of alibi raised by the Petitioner is a rebuttable plea of fact. It is open to the Petitioner to establish the same by leading appropriate evidence before the learned Trial Court at the stage of adduction of evidence. The material presently relied upon does not justify interference with the FIR or the charge-sheet under the inherent jurisdiction of this Court.

09. Accordingly, this Petition is **disposed** of at this stage with liberty to the Petitioner to raise and prove all such pleas, including the plea of alibi, before the Trial Court at the appropriate stage, including while hearing on charge/ discharge.

10. **Disposed of,** along with the connected CrlM.

(SHAHZAD AZEEM)
JUDGE

SRINAGAR:
13.11.2026
"TAHIR"

Tahir Manzoor Bhat
I attest to the accuracy and
authenticity of this
document