Serial No. 5
Regular Cause List

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT SRINAGAR

CRM(M) No. 601/2022
CrlM No. 1626/2022

Gowhar Majid Mir **…Petitioner(s)**

Through:
Mr. Sheikh Manzoor, Advocate with
Ms. Rozy Banoo, Advocate.

V/s.

Union Territory through Senior Superintendent of Police, Kupwara and Ors. **...Respondent(s)**

Through:
Mr. Faheem Nisar Shah, GA with
Ms. Shaila Shameem, Assisting Counsel for R-1 to 3.
Mr. Aushaq Hussain Shah, Advocate for R-4.

CORAM:
Hon'ble Mr Justice Shahzad Azeem, Judge.

ORDER
06.11.2026

01. The petitioner has called in question FIR No. 79/2022 dated 11.04.2022 registered at Police Station Kupwara under Section 420 of IPC.

02. The principal argument raised by learned counsel for the petitioner is that, there is neither any agreement nor any inducement alleged or attributed to the petitioner for the commission of the alleged offence. The allegations are only against the father of the petitioner. Therefore, in absence of any inducement on the part of the petitioner, the proceeding against him amounts to an abuse of process of law.

03. On the other hand, the respondents have filed a series of compliance reports. The last compliance report dated 02.04.2025 makes it conspicuous that the proceedings have been initiated against the petitioner as his account number has been used to siphon off the amount pursuant to the alleged deceitful agreement to provide the land as well as a job by means of impersonation as a Commissioner Secretary, Housing and Urban Development Department.

04. The Investigation Officer (IO) along with CD file is also present.

05. It appears that during the course of investigation, material has been collected, which *prima facie* shows the complicity of the father of the petitioner, namely Abdul Majid Mir, who allegedly came in contact with the respondent No. 4, who has been allegedly deceived by the petitioner and his father.

06. For making out a case of cheating, deception is the first and foremost ingredient and, therefore, if it is shown that no material worth the name has been collected during the investigation showing that the petitioner had at any time come in contact with the respondent No. 4, the ingredients of Section 420 of IPC would not be attracted against the petitioner.

07. Mr. Faheem Nisar Shah, learned Government Advocate submits that during the course of investigation, sufficient material has been collected against the petitioner showing his complicity and deception on his part.

08. Be that as it may, since the petitioner has invoked the extraordinary jurisdiction of this Court under Section 482 of Criminal Procedure Code, all these questions, which are relevant at the stage of charge and discharge, cannot be gone into. However, if the facts are not disputed or allegations are admitted, the Court can examine the matter to that extent only. This is not a case where, on the basis of the given facts and circumstances, any finding on its merit can be recorded otherwise, the same amount to a mini-trial, which is not envisaged while exercising jurisdiction under Section 482 of Criminal Procedure Code.

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09. When confronted with the above factual aspect of the matter, the learned counsel for the petitioner submits that he shall be satisfied if he is given liberty to approach the trial court and raise all these pleas, including the plea that at no point of time the petitioner had come in contact with the respondent No. 4 and, therefore, the offence under Section 420 of the IPC is not made out against him.

10. In view of the submissions made by learned counsel for the petitioner, this petition is taken up for final disposal and is disposed of at this stage with the direction to the Investigating Officer to file the challan before the competent court of law. It is further provided that learned trial

court shall hear the parties on charge and discharge, including on the plea as to whether the ingredients of Section 420 of IPC are made out against the petitioner.

11. It is expected of the learned trial court to expeditiously deal with the matter and to hear the parties on charge and discharge within a period of four weeks from the date of presentation of the challan.

12. Disposed of.

(Shahzad Azeem)
Judge

SRINAGAR:
November 6th, 2026
"HAMID"

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Abdul Hamid Bhat
I attest to the accuracy and
authenticity of this
document