

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

Pronounced on 27.12.2025
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Bail app. No. 82/2025

Jatinder Kumar

.....Petitioner(s)

Through: Mr. Vikram Sharma, Sr. Adv with
Mr. Monish Chopra, Adv
Mr. Sahil Sharma, Adv

vs

UT of J&K & Anr.

..... Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG

Coram: HON'BLE MR. JUSTICE MOHD. YOUSUF WANI, JUDGE

ORDER

27.12.2025

1. Through the medium of the instant petition having been filed in terms of the Provisions of Section 483 of the *Bharatiya Nagarik Suraksha Sanhita, 2023* (hereinafter referred to as *BNSS* for short), the petitioner-accused has sought bail in his favour in case FIR No. 86 of 2023 dated 29.08.2023 of P/S Crime Branch, EOW, Jammu, on the grounds *inter alia* that he is a law abiding and peace loving citizen of India and permanent resident of UT of J&K, therefore, entitled to seek enforcement of his constitutional and other legal rights. That he has been wrongly involved in the case FIR No. 86 of 2023 dated 29.08.2023 registered with P/S Crime Branch, EOW, Jammu U/Ss 419,429,467,468,471, 120-B IPC, 7 and 13 Prevention of Corruption Act. 1988 (hereinafter referred to as the PC Act). That he was arrested in the case on 19.02.2025 and since then has been in custody. That he is innocent and has not committed the alleged offences. That his name does not figure in the basic FIR and came to be implicated in the case FIR one and half years after the presentation of the original

charge sheet in the case before the court. That the investigating agency did not comply with the directions of the Hon'ble Apex Court issued in case titled "*Mohd Ishfaq Alam vs. State of Jarkhand*", followed by the Notification No. 2539/2023/RG dated 23.10.23 of this Court regarding issuance of prior notice to him in view of the relevant provisions of Section 35 of BNSS, corresponding to section 41 of the repealed Code of Criminal Procedure, 1973 (hereinafter referred to as the Code for short). That his earlier bail applications filed before the court of learned Special Judge Anti Corruption, Jammu (hereinafter referred to as the trial Court for short), came to be disallowed vide orders dated 25.02.2025 and 19.03.2025, without appreciating his innocence and non-involvement in the case which was apparent from the report of investigating agency. That he was fully cooperating with the investigating agency since the registration of the FIR in question on 29.08.23. That he is alleged to have misused his position as Manager of the J&K Bank by getting 17 personal consumption loans sanctioned in favour of the co-accused, when the fact remains that a total of 27 such personal loans were approved/sanctioned by the J&K Bank, Rajouri main branch, in which the co-accused had approached with fake documents. That he was not concerned with either the verification of the documents or the sanction of the loans, and that his role was only to place the applicants' documents before the concerned Manager. That the documents in the case in respect whereof he is alleged to have practised fraud came to be online verified by the Incharge Advance Manager followed by the sanction thereof by the concerned Manager of the bank. That there were ten more cases of personal loans in J&K Bank, Rajouri,

and in some other branches of the Bank, which also came to be obtained by the co-accused on the basis of false and forged documents. That the offences punishable u/ss 7 and 13 of PC Act came to be added in the case FIR after a gap of one and half years despite the fact that charge sheet had already been filed in the case FIR in the Court of learned Special Railway Magistrate, Jammu. That no kick-backs or bribe as alleged was ever obtained by him and it is for the prosecution to prove the such allegations at the trial beyond any shadow of doubt. That the credit card which was alleged to have been recovered and seized from the possession of co-accused Mohd Yousuf Bhati, had already been got closed on 31.12.2022. That the learned trial court has already granted bail to the co-accused, namely Mohd Shafi, Mohd Kabir, Mohd Saffer, and Zafeer Iqbal. That the petitioner has not been treated at par with the aforesaid co-accused on the basis of mere observations made by the learned trial court. That the allegation against him is that he facilitated impersonation and the preparation of false documents with a view to reactive Government accounts and to facilitate the sanction of loans. That the allegations leveled against him appear to have been misplaced as the same are attributable to the co-accused who have produced false and forged documents in the bank for getting the fraudulent loans and in that way he is equally a victim along with the bank. That his liberty stands curtailed in violation of the legal principles and his detention in the case since 17.02.2025 amounts to his pre trial conviction. That he has been exposed to social ridicule and the alleged accusation has come as a shock to him and his family. 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 by absconding at the trial. That there is no need of his being in custody as the supplementary challan against him and the co-accused has also been already presented before the learned trial court. That there is no question of his tampering with the prosecution evidence or any record not being in his possession. That he has no criminal antecedents and the allegations against him are misplaced being of his himself a victim at par with the Bank. That he shall abide any conditions that may be imposed by this Court while granting him the bail in the case.

2. The Respondent/UT has resisted the bail application on the grounds *inter alia* that same is not maintainable under law as the bail earlier sought by the petitioner/accused was twice declined by the learned trial court. That the applicant/accused is involved in very heinous non *bailable* offences who accordingly does not deserve the concession of bail. That the petitioner/accused has not only facilitated the entire crime of impersonation, creation of fake forged documents and given life to dormant accounts but also facilitated the sanction of various loans in favour of the co-accused by extending the false and forged documents. That the petitioner-accused has received kick-backs through bank transactions and in cash. That the special investigating team has already obtained the requisite sanction in terms of provisions of Section 17-A of the PC Act for the prosecution of the petitioner/accused. That the petitioner/accused by misusing his position as a Manager of the complainant bank has siphoned a huge public money by resorting to fraudulent means. That the petitioner/accused if admitted to the bail will jump over the concession by

tampering with the prosecution evidence and avoiding the trial. That the bail petition is grossly misconceived and without any legal foundation thus, merits out right dismissal. That none of the constitutional, legal or statutory rights of the petitioner has been infringed or violated by the respondent-state as the liberty of the petitioner stands curtailed in accordance with the law.

3. I have heard the learned counsel for the parties who almost reiterated their respective stands taken in the bail petition and the memo of objections.
4. The learned counsel for the petitioner-accused in support of his arguments placed reliance on the authoritative judgments cited as “*P. Chidambaram vs. Directorate of Enforcement*”, *Cr. Appeal No. 183/2019*, reported as *2019 Legal Eagle (SC) 1293*; “*V. Senthil Balaji vs. Deputy Director, Directorate of Enforcement*”, *2024 Legal Eagle (SC) 891*; *Sajjad Ahmad vs. Central Bureau of Investigation & anr*, reported as *2023 (4) JKJ(HC), 82*; and *Varun Choudhary vs. UT of J&K and anr*, *Bail App No. 70/2024*, decided on 29.04.2024.
5. The case of the prosecution in brief is that a written complaint was lodged by Mohd Shakeel s/o Gh. Mohd Shafi, Chief Manager S&C Division Zonal Office J&K Bank Ltd, Jammu with the respondent alleging that co-accused Saleem Yousuf Bhati, who was a contractual employee with IWMP Department at Poonch and some others had got activated the inactive accounts of Water Shed Committee at Branch, Lasana, Surankote Pooch. That said persons got the nomenclature of the accounts changed and issued fake salary certificates/confirmation letters to different non existing employees thereby managing grant of personal loans, cash credit loans and

car loans etc., by impersonating themselves as Government employees. That said accused persons also managed to open fraudulent Government accounts at branch office Bus stand Mender. That said persons firstly deposited the money through different banks/branches in the accounts of Water Shed Committee. They also issued fake authority letters instructing the branches of the complainant-bank to disburse/credit the salaries in their individual accounts. That said persons thereafter succeeded in obtaining the loans from the different branches of the complainant/bank thereby causing wrongful loss to the bank in the huge amounts of crores. That during the course of the investigation, it was found, that the petitioner/accused Jatinder Kumar of J&K Bank Main Branch Rajouri worked in a casual manner and remained hand in glove with the accused persons. That he processed loan files amounting to crores of rupees. That the petitioner came to be posted at J&K Bank main branch Rajouri on 22.09.2021 and worked in the capacity of Manager. That he was duty bound to process/recommend the loan proposals. That during investigation it was found that the petitioner was known to co-accused Mohd Safer prior to sanction of fraudulent loans. That said Mohd Safer introduced the petitioner to co-accused Saleem Yousuf Bhati, who further succeeded to win-over the confidence of the petitioner/accused. That on the instance of the main accused Saleem Yousuf Bhati, the petitioner Jatinder Kumar processed personal loan cases of 18 fake employees. That during the process the petitioner ignored obvious discrepancies in the salary certificates furnished by the fake employees. That petitioner/accused was duty bound to check the entire records produced by the co-accused persons

before processing the loans who in furtherance of the criminal conspiracy deliberately and intentionally avoided the same with the result undue benefit has been given to fake accused employees as also to himself at the cost of wrongful loss to state exchequer. That during investigation it was found that petitioner/accused has taken bribe in lacs of rupees (cash and bank transactions) thereby facilitating the fraudulent loans availed by the accused.

That during the investigation it was also found that co-accused Saleem Yousuf Bhati, a mastermind of the crime from his saving bank account after availing fraudulent consumption loan of Rs.22/- lacs, transferred an amount of Rs.10/- lacs in the account of Imran Shafi Mir, from where the said amount has been transferred in the account number of Imperial Trading Company. That from the account number of Imperial Trading company an amount of Rs.5/- lacs was transferred in the account of the petitioner, Jatinder Kumar, through two transactions. That an amount of Rs.4/- lacs 75/-thousand was also found to have been transferred from the account of Imperial Trading Company into the SBI account maintained in the name of Shalini Charak wife of the petitioner/accused through two transactions.

That the investigating agency after making hectic efforts and upon issuance of LOC (Look Out Circular) succeeded in arresting the main accused Saleem Yousuf Bhati from IGI Air port New Delhi on 04.10.23 and on his personal search the credit card of the accused/applicant Jatinder Kumar was found and seized.

6. Keeping in view the perusal of the instant bail petition, objections filed in rebuttal and the consideration of the rival arguments advanced on both the sides, this court is of the opinion that it may meet the ends of justice in case the petitioner/accused is admitted to bail in the case FIR in question, subject to some reasonable terms and conditions. The supplementary charge sheet in the case FIR in question is reported to have been presented and pending adjudication before the learned trial court against the petitioner/accused and six others. It is not the case of the prosecution that any record is in the possession of the petitioner/accused. The co-accused are reported to have been bailed out in the case FIR. There appears to be no imperative need of the petitioner/accused in custody. The petitioner/accused is reported to be in custody in the case FIR since his arrest on 17.02.2025.

7. In *State of Rajasthan Jaipur vs. Balchand AIR 1977 S.C. 2447*.

The 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.

8. 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.

9. 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.”

10. 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.

11. It has been laid down by the *Hon'ble Supreme Court in Sanjay Chandra vs. Central Bureau of Investigation AIR 20012 SC830* 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."

12. *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."

13. 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 Maharashtra 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.
14. In the back drop and without touching the merits of the case, application is allowed and the petitioner/accused namely Jatinder Kumar s/o Sh. Dharam Paul Sharma R/o Narwal Bala, Near Shiv Shakti Temple Jammu is admitted to bail in case FIR No. 86 of 2023 dated 29.08.2023 U/Ss 419, 420, 467, 468, 471, 120-B IP r/w section 7 & 13 PC Act P/S Crime branch Jammu subject to his furnishing surety and personal bond in the amount of Rs.1/- lac each (the surety bond of ₹1,00,000/- to be furnished

by two persons from amongst the near relatives of the petitioner, each of whom shall be liable to the extent of ₹50,000/-), to the satisfaction of the learned Registrar Judicial of this Court and the Superintendent of the Jail concerned, respectively, for assuring his compliance of the following conditions:

- i) The petitioner/accused shall remain punctual at the trial of the case.
- ii) The petitioner/accused shall not leave the territory of India without prior permission of the learned trial court.
- iii) The petitioner/accused shall not repeat the commission of any crime.
- iv) The petitioner/accused shall not, directly or indirectly, make any inducement, threat, or promise to any of the unexamined prosecution witnesses so as to dissuade them from making true accounts of the case before the trial court.
- v) That the petitioner/accused shall furnish permanent and temporary address particulars to the learned trial court and in case of any change in his address the same shall also be communicated to the learned trial court.

15. It is needful to mention that nothing in this order shall be construed as any prejudging of or interference with merits of the case which shall be the subject matter of the trial.
16. The learned trial court shall proceed with the trial of the case strictly in accordance with law and shall not be influenced by any references made in this order to the arguments advanced by the learned counsel for the

parties, which are limited only to the consideration and disposal of the present bail application.

17. Disposed of.

(Mohd. Yousuf Wani)
Judge

Jammu
27.12.2025
Ayaz

