



**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Reserved on 06.02.2026

Pronounced on 20.02.2026

Uploaded on: 20.02.2026

**Whether the operative part or full
judgment is pronounced: Full**

Bail App No. 83/2025

Murad Ali and others

.....Appellant(s)/Petitioner(s)

Through: Mr. Sunil Sethi, Sr. Advocate with
Mr. Waheed Choudhary, Advocate

vs

Union Territory of J&K and others

..... Respondent(s)

Through: Mr. Vishal Bharti, Dy.AG for Nos. 1 to 3
Ms. Vasudha Sharma, Advocate for No. 4

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1. The petitioners figure as accused in charge sheet, titled, "U. T. of J&K vs. Murad Ali and others" pending before the court of learned Principal Sessions Judge, Samba (hereinafter to be referred as "the trial court") arising out of FIR bearing No. 187/2022 for commission of offences punishable under Sections 302, 307, 364, 427, 147 and 148 IPC and 4/25 Arms Act registered with Police Station, Bari Brahmana, and are seeking bail on the grounds that the statements made by three eye witnesses before the learned trial court do not connect the petitioners with commission of any offence and they are facing incarnation for the last two and half years. It is also averred in the



application that till date, out of 37 witnesses, only three witnesses have been examined by the learned trial court.

2. Objections stand filed by the official respondents as well as the complainant, thereby narrating the factual aspects of the case. In the response, the official respondents have stated that there is no delay on the part of the prosecution in conducting the trial and the prosecution has summoned and recorded the statements of the witnesses time to time without any delay and further that there are 12 accused, who are still absconding in the instant case and yet to be apprehended. It is also stated that the offences in which petitioners are involved carry death penalty or life imprisonment and keeping in view of the severity of punishment, the petitioners do not deserve any concession of bail.
3. Mr. Sunil Sethi, learned Senior Counsel representing the petitioners, has vehemently argued that the eye witnesses examined till date have not deposed about the role played by the petitioners in the commission of offence of murder and rather general allegations have been levelled against the petitioners, therefore, they deserve to be enlarged on bail. He has further submitted that in a span of two and half years, only five witnesses have been examined.
4. *Per contra*, Mr. Vishal Bharti, learned Dy.AG representing official respondents, has submitted that initially only six accused came to be arrested on 26.10.2022 and thereafter, two more accused persons, namely, Kaga Gujjar and Mohd Reyaz *alias* Raju were arrested in the year 2023. In the month of January-2024, another accused, namely, Zakir Hussain *alias* Jagga was arrested. Another accused, namely, Imam Hussain *alias* Bachi was



arrested in the month of March, 2024. He has further submitted that the prosecution has produced the witnesses without any delay and prior to the framing of charge on 06.12.2023, number of adjournments were sought by the defence to argue the matter on the issue of charge/discharge. He has vehemently argued that the offences under section 302 IPC for which the petitioners have been charged, carry punishment of death and life imprisonment and in such cases, bail cannot be granted.

5. Ms. Vasudha Sharma, learned counsel appearing for the injured-victim, has submitted that the eye witnesses examined so far have made incriminating statements regarding involvement of the petitioners in the commission of offences for which they have been charged and while considering the bail application, the evidence led by the prosecution cannot be appreciated.
6. Heard learned counsel for the parties and perused the record.
7. The allegations leveled against the petitioners in the charge sheet are that on 03.10.2022, complainant, namely, Abdul Rashid S/o. Makhan R/o. Barotian, Samba submitted a written application with Police Station, Bari Brahmana for registration of FIR against Reham Ali, Mam Hussain both sons of Ibrahim, Bachu S/o. Reham Ali, Kaga, Murad Ali, Riyaz, Mansu, Farmaan, Manzoor, Zakir all sons of Syeed Ali, Siraj S/o. Bashir, Bashir S/o. Lal Hussain, Showkat S/o. Bashir, Bagh Hussain S/o. Munna, Zakir S/o. Hashim, Ali Hussain S/o. Farooq, Bachi S/o. Miyan, Lalu S/o. Miyan, Farooq S/o. Raj Wali, Talib, Bachu both sons of Saif Ali, Maku S/o. Imam Hussain, Roshan, Taru both sons of Qasim, Juka S/o. Ali Hussain, Showkat Ali S/o. Imam Hussain all residents of Balole Khad, Bari Brahmana, Samba.



It was stated that on 03.10.2022, his maternal uncle Zakir Hussain along with Bashir S/o. Noor Hussain both R/o. Balole Khad, Bari Brahmana, Bagh Hussain and Kalo had gone to Balole Nallah, Bari Brahmana and after attending the function, while returning, when reached near Peer Baba, Pipe Factory Industrial Area in their Alto Car bearing registration No. JK02CX 3876 at about 2240 hours, all the above mentioned persons came there in a Mahindra Load Carrier, registration number not known due to old enmity with common criminal intention to murder, hit their Alto Car and forcibly kidnapped them in above said Mahindra vehicle and after commission of crime with deadly weapons threw Zakir Hussain and Bashir at Lane No. 03 SIDCO Industrial Area near Dabur Factor in critically injured condition. They took Bagh Hussain with them and Kalu escaped himself from their clutches and ran away.

8. On receipt of the information, FIR bearing No. 187/2022 for offences punishable under sections 307, 364, 323, 427, 147 and 148 IPC and 4/25 Arms Act was registered and investigation was commenced. During investigation, the Investigating Officer recovered Zakir Hussain S/o. Dhaua R/o. Laswara Deoli, Jammu and Bashir Ahmed in a critical injured condition and shifted them to GMC Jammu. During treatment, injured Zakir Hussain succumbed to his injuries at Amandeep Hospital Amritsar. Thereafter, offence under section 302 IPC was added. The statements of eye witnesses were also recorded under section 164 Cr.PC. On 26.10.2022 accused, namely, Murad Ali *alias* Chuchu, Siraj Din *alias* Siraj, Lal Hussain *alias* Lalu, Tariq Hussain *alias* Taru, Farooq Ali, Zakir Hussain were arrested.



During questioning, Murad Ali *alias* Chuchu made disclosure statement with regard to iron pipe whereas other accused, namely, Siraj Din, Lal Hussain, Tariq Hussain, Farooq Ali and Zakir Hussain made disclosure statements with regard to the weapons of offence i.e. large size Bamboo sticks and were recovered from the bushes at Balole Nallah near the Dabur Factory, Bari Brahmana.

9. From the statements of the witnesses recorded, it was found that there was long old enmity of the petitioners with the deceased Zakir Hussain and injured Bashir Ahmed. On 03.10.2022, deceased Zakir Hussain and injured Bashir Ahmed went to Balole Nallah, Bari Brahmana for attending the marriage function and when they along with Khadam Hussain, Manshu Ali and Mohd. Rashid were returning in Alto Car bearing registration No. JK02CX 3876 and reached near the Narvada Factory, Bari Brahmana, Main Road at about 2200/2215 hours, the above said accused came there in two Bolero Mahindra load carriers No. JK02AV 7394 and JK02CW 4079 from SIDCO Chowk Bari Brahmana on the wrong side and hit the Alto Car by Mahindra Load Carrier bearing registration No. JK02AV 7394. All the accused came out from both the Mahindra Load Carriers armed with deadly weapons with intention to murder. When the deceased Zakir Hussain and injured Bashir Ahmed tried to come out from the Alto Car, accused Reham Ali, who was holding a deadly weapon i.e. Toka in his hand, hit Zakir Hussain on the head. Murad Ali *alias* Chuchu hit Bashir Ahmed with an iron rod on his head and all the accused dragged out Bashir Ahmed and Zakir Hussain from the car and started beating them with Tokas, Lathis and rods.



The car's other occupants, Khadam Hussain, Manshu Ali, and Mohd. Rashid, stepped out and took cover in the nearby bushes. The above-mentioned accused boarded the deceased Zakir Hussain and Bashir Ahmed in Mahindra Load Carrier bearing registration No. JK02CW 4079 and took them towards Balole Nallah side in the bushes and both the injured persons were dragged down from the Bolero Load Carrier and were again beaten with Tokas, Lathies and rod. Both got serious injuries. They took them in Mahindra Bolero Load Carrier bearing registration No. JK02AV 7394 and threw them near Dabur Factory Balole Nallah along with road. During investigation, offences under sections 302, 307, 323, 147 and 148 IPC and 4/25 Arms Act were established against Reham Ali, Imam Hussain *alias* Phaliya both son of Ibrahim, Tasadiq Hussain *alias* Maka S/o. Imam Hussain *alias* Phaliya, Ashfaq Ali *alias* Bachu S/o. Reham Ali, all residents of Langotia, RS Pura, Jammu, Shoket Ali *alias* Shoku S/o. Bashir Ahmed, Yaqoob Ali *alias* Juka S/o. Ali Hussain, Ali Hussain, Kaga Din both S/o. Firoz Din *alias* Faro, Talib Hussain *alias* Tallu S/o. Saif Ali, Bashir Ahmed S/o. Lal Hussain, all residents of Kothey Churli, Tehsil Bishnah, Mohd Riaz *alias* Raju, Manshu both S/o. Sayed Ali all Rakh Barotian Vijaypur, Zakir Hussain *alias* Jagga S/o. Hashim Din R/o. Laswara Deoli Bishnah, Imam Hussian *alias* Bachi S/o. Mam Din *alias* Mian R/o. Krail Manhsan, Tehsil Bishnah, Bagh Hussian *alias* Roshan Din *alias* Rosha S/o. Qasim Din R/o. Meen Sarkar, Sarore Adda, Bari Brahmana, Murad Ali *alias* Chuchu S/o. Ali Hussain R/o. Kothe, Siraj Din Alias Siraj S/o. Bashir Ahmed resident of Kothe, Lal Hussain *alias* Lalu S/o. Mam Din resident of Krail Manhsan,



Bishnah, Tariq Hussain *alias* Taru S/o. Qasim Din R/o. Sarore Adda Bari Brahmana, Farooq Ali S/o. Raj Wali, Zakir Hussain S/o. Sayeed Ali R/o Rakh Barotian, Vijaypur.

10. As only six accused as mentioned above were arrested on 26.10.2022, therefore, after completing the legal formalities, charge sheet was filed against them before the learned Magistrate and the challan was committed to learned Sessions Court on 20.01.2023. During course of further investigation, one more absconding accused Kagga Gujjar i.e. petitioner No. 8 was arrested on 18.04.2023 and he disclosed that he had burnt the weapon of offence i.e. Lathi near his house at Gujjar Colony, Sunjwan and as such, offence under section 201 IPC was added in the instant case. Supplementary charge sheet was produced against him on 12.06.2023. On 15.09.2023 another accused, namely, Mohd. Reyaz i.e, petitioner No. 7 was arrested. He stated that he had thrown the weapon of offence at an unknown place in Bari Brahmana and after 11 months, he cannot identify the actual place. On 04.10.2023, supplementary charge sheet was filed against Mohd. Reyaz *alias* Raju. On 05.01.2024 complainant party informed Police Station that they had apprehended one more absconding accused Zakir Hussain *alias* Jagga petitioner No. 2 herein and he was accordingly arrested. On 13.03.2024, again the complainant party informed the Police that they had apprehended one more accused Imam Hussain *alias* Bachi and he was also arrested. It is evident, as on date, 12 accused are still absconding.
11. It is urged by Mr. Sunil Sethi, learned Senior Counsel that the witnesses examined till date have not deposed against the petitioners. The most



important witness is injured-PW Bashir Ahmed. List of witnesses annexed with the charge sheet reveals that there are 37 witnesses. Mr. Sethi, learned Senior Counsel, referred to the statements of PW Abdul Rashid, Bashir Ahmed, and Khadam Hussain in an effort to persuade this Court that there is no incriminating evidence linking the petitioners to the offense of murder.

12. PW-Bashir Ahmed in his deposition before the Court has stated that in the month of October, 2022, he along with Zakir Hussain were in Vijaypur in connection with marriage of his paternal aunt's son. After performance of nikah ceremony and meals, he along with Zakir Husain, Manshu Mohd. Rashid, Khadam Hussain sat in Alto Car bearing registration No. JK02CX 3876. They went towards Bari Brahmana and in the meanwhile, one Balero came on wrong side, hit their Alto Car from the front and Zakir Hussain reversed the car. Then another Balero came from behind. From Balero Vehicle in front of the car, Reham Ali came out. Murad Ali also came out from the same vehicle. Imam Hussain, Tasaduk Hussain, Siraj S/o Bashir Ahmad, Showkat Ali, Manshu, Zakir Hussain, Lal Hussain and Mam Hussain also came out from another vehicle. Reham Ali assaulted Zakir Hussain with Toka at his head, Murad Ali assaulted him with iron rod, Reyaz Ali also assaulted with rod on his left leg and thereafter, all the accused assaulted them. In the meanwhile, one truck from Smailpur came and three others, who were with them in the vehicle hid themselves in the bushes. Accused had also gone here and there. Thereafter, he and Zakir Hussain were put in a Mahindra Load Carrier and taken from Dabur Factory to Balole Nallah. Both vehicles were positioned facing each other with their lights kept



on. From the second vehicle, Juka S/o. Ali Hussain, Ali Hussain *alias* Kaga S/o. Firoz Din, Bagh Hussain S/o. Tariq Hussain, Farooq, Zakir Hussain, Bashir Ahmed S/o. Lal Hussain, Issac Ali came out of the vehicle, and they all started beating them with rods and sticks. Reyaz Ahmed and Zakir Hussain were also carrying toka and they assaulted them for few minutes. Reham Ali and Murad Ali were instigating them to assault them more as Zakir Hussain was still alive and after assaulting, they were again kept in the vehicle and thrown outside the Dabur Factory. During cross-examination, he has stated that his brother-in-law, namely, Zakir Hussain is accused in FIR under section 376 IPC, which is false FIR and false allegations have been leveled by the accused.

13. PW-Abdul Rashid has also made statement on identical lines. He has specifically stated that Reham Ali hit at the head of the Zakir Hussain and Murad Ali who have having spear (rod) and further that the other accused were armed with lathis (sticks) and their names are Imam Husain, Ishfaq, Sadaqat Hussain, Ali Hussain, Lal Hussain, Farooq, Zakir Hussain *alias* Jagga, Manshu, Zakir Hussain S/o. Syed Ali, Reyaz Ali *alias* Raju, Siraj Din S/o. Bashir, Showkat Ali, Talib Hussain, Roshan Din. Both Zakir Hussain deceased and Bashir Ahmed injured were taken towards Balole Nallah.
14. PW-Khadam Hussain has stated about mode and manner, in which the accused assaulted them. He stated that he was accompanied with Zakir Hussain, Mohd. Bashir, Manshu Ali and Bashir Ahmed in Alto Car bearing registration No. JK02CX 3876. He has stated that his Alto Car was hit by Bolero and the arrival of another Bolero on spot. He has further deposed that



Reham Ali assaulted Zakir Hussain with Toka. Murad Ali assaulted Mohd. Bashir with rod. They (witness) and two companions hid themselves in the bushes. 22 persons had alighted from the vehicles. Their names were Reham Ali, Mam Hussain, Tariq Hussian, Ishfaq Ali, Ali Hussain, Gagga, Murad Ali, Zakir Hussain, Bagh Ali, Zakir Hussain, Farooq Ali, Tariq Hussain, Bashir, Talib Hussain, Showkat Ali, Raj, Manshu Ali and Zakir Hussain. They were also assaulting on spot. They took both the injured to Bari Brahmana Khad, where 22 persons assaulted them with tokas, iron rods and bamboo sticks.

15. It is settled law that while considering a bail application, the court cannot appreciate the evidence on record in detail; however, such evidence may be examined for the limited purpose of determining whether any incriminating material exists against the accused. In **Kalyan Chandra Sarkar v. Rajesh Ranjan alias Pallu Yadav and anther, (2004) 7 SCC 528**, it has been observed by the Hon'ble Apex Court that *"The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where the accused is charged of having committed a serious offence"*.
16. In **State of Utter Pradesh through CBI v. Amarmani Tripathi, (2005) 8 SCC 21**, the Hon'ble Apex Court has held that *"While a detailed*



examination of the evidence is to be avoided while considering the question of bail, to ensure that there is no prejudging and no prejudice, a brief examination to be satisfied about the existence or otherwise of a prima facie case is necessary”.

17. **In Rohit Bishnoi Vs. The State of Rajasthan, 2023 INSC 642**, the Hon’ble Supreme Court of India has observed as under:

“We have extracted the relevant portions of the impugned order above. At the outset, we observe that the extracted portions are the only portions forming part of the “reasoning” of the High Court while granting bail. **As noted from the afore cited judgments, it is not necessary for a Court to assign elaborate reasons or engage in a roving inquiry as to the merits of the prosecution's case while granting bail, particularly, when the trial is at the initial stages and the allegations against the accused would not have been crystalised as such. Elaborate details cannot be recorded so as to give an impression that the case is one that would result in a conviction or, by contrast, in an acquittal while passing an Order on an application for grant of bail. However, the Court deciding a bail application cannot completely divorce its decision from material aspects of the case such as the allegations made against the accused; severity of the punishment if the allegations are proved beyond reasonable doubt and would result in a conviction; reasonable apprehension of the witnesses being influenced by the accused; tampering with the evidence; criminal antecedents of the accused; and a prima-facie satisfaction of the Court in support of the charge against the accused.**

(emphasis added)

18. The allegations against the petitioners are of a grave and serious nature. They are accused of abducting Zakir Hussain and assaulting both him and Bashir Ahmed, resulting in the death of the former and serious injuries to the latter. When the case of the petitioners is examined on the touchstone of the law laid down by the Hon’ble Supreme Court, it cannot be said at this stage that there is a total absence of evidence. Any contradictions in testimony cannot be evaluated now to determine culpability, as doing so would amount to prejudging the merits of the case. Furthermore, a key eyewitness, Manshu, is



yet to be examined. Consequently, the petitioners have failed to establish a case for bail based on a purported lack of evidence.

19. It was contended that in two and half years, only three witnesses have been examined. After perusing the record, this Court finds that charge sheet was filed against six accused on 20.01.2023 and was committed to the learned Sessions Court on the same day. Learned counsel for the defence filed the power of attorney only on 25.05.2023 and thereafter, adjournments were sought by the defence counsel on the next two dates of hearings i.e. on 13.06.2023 and 15.07.2023 and the learned counsel for the defence was absent on 05.08.2023. Yet again on 26.08.2023, defence counsel sought adjournment. Finally the defence counsel argued on the issue of charge/discharge on 14.08.2023 and in the meanwhile, two more charge sheets were filed and vide order dated 07.11.2023, all these charge sheets were directed to be clubbed and finally on 06.12.2023, charges for commission of offences punishable under Sections 302, 307, 364, 323, 427 and 147 IPC and 4/25 Arms Act were framed against the petitioners. Thereafter, one more accused, namely, Zakir Hussain *alias* Jagga was arrested and vide order dated 05.01.2024, he was also charged for commission of abovementioned offences. Thereafter, one more accused, namely, Imam Hussain *alias* Bachi was arrested and vide order dated 01.05.2024, Imam Hussain was also charged for commission of abovementioned offences.
20. Although only five witnesses have been examined so far, the established timeline suggests that the prosecution is not intentionally delaying the trial.



Key eye witness Manshu, who was with Bashir Ahmed in the vehicle at the time of the incident, has not been examined as yet.

21. Be that as it may, it is the duty of the learned trial court to ensure that no unnecessary adjournments are granted to either of the parties so as to ensure the right of the accused to have a speedy trial. The speedy trial is not only in the interest of the accused but also in the interest of public at large.
22. In view of the above, this Court is of the considered view that the petitioners have not been able to make out a case for grant of bail. Accordingly, this petition **is dismissed**. However, the learned trial court is directed to ensure that no unnecessary adjournments are granted to the parties and the trial is concluded expeditiously.



(RAJNESH OSWAL)
JUDGE

Jammu:
20.02.2026
Rakesh PS

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No