

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

...

Bail App no.98/2020

*Reserved on: 16.08.2021*

*Pronounced on: 24.09.2021*

**Manmeet Singh**

..... Petitioner(s)

Through: Mr. Mushtaq Ahmad Dar, Advocate

**Versus**

**Union Territory of Jammu and Kashmir**

.....Respondent(s)

Through: Mr. Asif Maqbool, Dy. AG

**CORAM:**

**HON'BLE MR JUSTICE VINOD CHATTERJI KOUL, JUDGE**

**JUDGEMENT**

1. Petitioner, in this petition/application, moved under Section 439 of the Code of Criminal Procedure, 1973, read with Section 482 Cr.P.C., and 435 Cr.P.C., seeks quashment of the Order dated 18.09.2020, passed by 4<sup>th</sup> Additional Sessions Judge, Srinagar (for short "*court below*") in an application for grant of bail. He also prays for grant of bail.
2. As is gatherable from perusal of lengthy application, comprising of 78 pages, applications for grant of bail had been earlier made by applicant before the court below, but he failed.
3. Response/status report has been filed by respondent.
4. I have heard learned counsel for parties and considered the matter. I have gone through the record.
5. Learned counsel appearing for applicant has stated that allegations made and levelled against petitioner/applicant are false, frivolous and without any basis. He has submitted all what is mentioned in the instant application, and has cited the judgements reproduced in the application, which need not be reiterated again, so as to save the precious time and avoid unnecessary lengthiness.

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6. The prosecution story, as stated by respondent in Response/Status Report, is that on 28.06.2018, at about 15:40 hours, police station Sadder, Srinagar, received an information through reliable source that one Pooja W/o Manmeet Singh R/o Mehjoor Nagar, Srinagar, has ended her life by hanging herself at her residence. On receipt of the information, a report No.23 was entered in the Daily Dairy of police station Sadder Srinagar and inquest proceedings were initiated in the matter. During inquest proceedings, postmortem of deceased was got conducted through a team of Medical Experts on 29.09.2018, and various samples drawn during postmortem were forwarded to Director, FSL, Srinagar and HOD, Department of Pathology, GMC, Srinagar, for report/ expert opinion. During investigation, it is also stated by respondent, it came to surface that deceased was married petitioner and had a son out of the said wedlock and that family of deceased was not financially sound and the in-laws, which included husband, mother-in-law, father-in-law, and wife of brother-in-law used to mentally harass deceased for not being able to fulfil dowry demands, which seems to be circumstances under which death of deceased took place. Accordingly, FIR no.104/2018 under Section 304-B, 498-A RPC was registered in police station Sadder, Srinagar and investigation was taken up. The statements of witnesses were recorded and offences were established against petitioner/applicant and others. The accused persons were arrested and charge sheet was produced before the court on 04.09.2018.
7. The order impugned, on its perusal, reveals that it has been passed by the Trial Court after making comprehensive discussion. The Trial Court has rightly said that merely because sentence provided under Section 304-B RPC is seven years and extended up to life imprisonment, it cannot be said that the offence under this section do not have that seriousness which is attracted in case of murder and other heinous offences; these are the sensitive cases which deal with institution of marriage and should be dealt with utmost care and caution and it is not like that there is any bar in granting of bail in such like cases, but the accused can be granted bail only if evidence which has come on record overwhelmingly point towards non-involvement of accused in the case. The Trial Court has also said that after going through the evidence,

particularly statements of parents and sisters, it was felt that applicant is not entitled to bail.

8. Perusal of the instant application reveals that statements of witnesses have been unnecessarily reproduced. Learned counsel for applicant has also unnecessarily reproduced various judgements, making the present application verbose.
9. The statements of witnesses reproduced and discussed in the instant application do not serve any purpose and do not render any help to the case of applicant as this Court while considering and deciding the bail application cannot discuss the veracity or substance of the statements of the witnesses. The judgements reproduced by learned counsel for applicant in the instant application can very well be considered at the final stage of the trial and not when an application for grant of bail is considered.
10. While considering the application for bail, it is necessary to take into consideration, first whether the accused would take up the trial without hampering it and secondly, whether he would subject himself to the verdict of the Court. The Court must also consider other factors such as, the serious nature of the crime and the gravity of the circumstances under which such an offence is alleged to have been committed, position and status of the accused with reference to the victim and witnesses, of repeating the offences, of jeopardizing his own life and other relevant grounds.
11. One of the main considerations in granting bail would be as to whether on the basis of evidence and the documents on which prosecution relies, it can be said that there are grounds to believe that the accused is involved in offence punishable with death or imprisonment for life and if there are reasonable grounds on which the accused are likely to be charged of murder, then the question of grant of bail would not arise. In the present case, applicant is facing trial for commission of offence punishable under Section 304-B RPC. From perusal of the record on the file as also application, no definite view can be made that there are reasonable grounds to believe that applicant is not guilty of alleged offences and no doubt applicant is facing trial for last five years but it is also a fact that he is facing trial for commission of offence of murder.
12. The considerations which normally weigh with the court in granting bail have been explained by the Supreme Court in **State vs. Capt. Jagjit**

***Singh AIR 1962 SC 253***, and ***Gurcharan Singh vs. State (Delhi Admn) (1978) 1 SCC 118***, which are: the nature and seriousness of the offence; the character of evidence; circumstances which are peculiar to the accused; a reasonable possibility of the presence of the accused not being secured at the trial; reasonable apprehension of witnesses being tampered with; the larger interest of the public or the State and other similar factors which may be relevant in the facts and circumstances of the case. The Supreme Court again in ***Prasad Shrikant Purohit vs. State of Maharashtra, (2018) 11 SCC 458***, has held:

“21) 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. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider, among other circumstances, the following factors also before granting bail; they are:

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

(b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

(c) Prima facie satisfaction of the court in support of the charge.

22) Before concluding, we must note that though an accused has a right to make successive applications for grant of bail, the court entertaining such subsequent bail applications has a duty to consider the reasons and grounds on which the earlier bail applications were rejected. In such cases, the court also has a duty to record the fresh grounds which persuade it to take a view different from the one taken in the earlier applications.

23) At the stage of granting bail, a detailed examination of evidence and elaborate documentation of the merits of the case has not to be undertaken. The grant or refusal to grant bail lies within the discretion of the court. The grant or denial is regulated, to a large extent, by the facts and circumstances of each particular case. But at the same time, right to bail is not to be denied merely because of the sentiments of the community against the accused.”

13. In the above case, the Supreme Court has held that the Court granting bail should exercise its discretion in a judicious manner and not as a matter of course and a detailed examination of evidence and elaborate documentation of the merits of the case has not to be undertaken inasmuch as grant or refusal of bail lies within the discretion of the court.

It is well settled law that the court should refrain from appreciating the evidence while considering the bail application.

14. When the application in hand is taken for consideration, it contains the statements of witnesses, which, according to counsel for applicant, have been reproduced so that this Court would appreciate the same while considering the application for bail. It is made clear here that the nature and gravity of the offence and its impact on the democratic fabric of the society is to be considered and there should not be observations and findings on the credibility and the evidential value of the witnesses at the stage of considering application for grant of bail. In the event any observation and finding are made about the statements of witnesses, reproduced by applicant in the application in hand, same would virtually amount to discussing the whole case, which is subject-matter of final stage of the trial.
15. Since in the present case, the trial is in progress and if any finding or view is made by this Court while taking into account the statements of the witnesses or for that matter any finding on their credibility and evidential value at the stage of granting or refusing bail, it would seriously prejudice the prosecution case. The allegations against accused are serious and same cannot be determined that the allegations levelled against accused are either false or true and there is every chance that if applicant is enlarged on bail, he may influence the witnesses as he is facing trial for commission of offence, which is punishable with death or imprisonment for life. Reference in this regard is made to ***Kalyan Chandra Sarkar vs. Rajesh Ranjan @ Pappu Yadav and anr., (2004) 7 SCC 528; State of U.P. through CBI vs. Amarmani Tripathi, (2005) 8 SCC 21; Prahlad Singh Bhati vs. NCT, Delhi and anr, (2001) 4 SCC 280; Ram Govind Upadhyay vs. Sudarshan Singh and ors., (2002) 3 SCC 598; State of Maharashtra vs. Ritesh, (2001) 4 SCC 224; Panchanan Mishra vs. Digambar Mishra and ors., (2005) 3 SCC 143; Vijay Kumar vs. Narendrea and ors, (2002) 9 SCC 364; Anwari Begum vs. Sher Mohammad and anr., (2005) 7 SCC 326; Prasanta Kumar Sarkar vs. Ashish Chatterjee and ors., (2010) 14 SCC 496; and Ravindersingh vs. State of Gujarat (2013) 12 SCC 446.***
16. In the above backdrop, the judgements relied upon by learned counsel for applicant do not help to the case of applicant as being

distinguishable in facts and circumstances of the present case. Resultantly, order impugned does not warrant any interference.

17. For the foregoing reasons, this is not a fit case for grant of bail. Bail application/petition along with connected CM(s) is, accordingly, **dismissed**.
18. Needless to say, that the expression of any opinion by this Court in the present case will not be treated as an expression on merits of the case.

(Vinod Chatterji Koul)  
Judge

**Srinagar**

24.09.2021

'Qazi Amjad, Secy'

Whether approved for reporting? Yes/No

