

IN THE COURT OF SUB-JUDGE/JMIC SURANKOTE

File No. 229/Bail
CNR No. JKPN040003772023
Date of institution. 17.07.2023
Date of order: 18.07.2023

IN THE CASE OF:-

Amjid Ali S/o Mehmood Hussain Shah R/o
Sanai Tehsil Surankote, District Poonch.
...Applicant/Accused.

Through:- Adv. Anzar Ahmed

V/S

U.T of J&K through S.H.O P/S Surankote
..... Non-applicant

Through:- Ld. A.PP. Sh. Rukhsar Ahmed.

**FIR No:-170/2023 of P/S Surankote
Offence U/S 341,323 IPC**

IN THE MATTER OF:- Application for grant of bail.

Coram:- Wajahat Hussain Kazmi

J.O Code:- JK00185

ORDER

1. Through this order I propose to dispose of the instant bail application presented by the counsel for the applicant seeking surrender bail of the applicant on the grounds that the applicant is the peace-loving, law-abiding citizens of India and have deep roots in the society and is quite innocent. That the instant application is being filed by the applicant seeking bail

in FIR No. 170/2023 registered at police station, Surankote under sections, 341,323 IPC. That the allegations leveled against the applicant are absolutely concocted and far beyond the reality. The fact of the matter is that the applicant has nothing to do with the commission of alleged offence. It is also averred that the applicant has never been implicated in any criminal case in the past. The applicant is ready to furnish bail bond and surety bond as desired by the court and will fully cooperate with the I.O during investigation. That the applicant undertakes to abide by all the terms and conditions, if any imposed by the court.

2. Police report sought from concerned Police station disclosed that the involvement of accused person in case FIR No.170/2023 of P/S Surankote U/S(s) 341,323 IPC. The investigation of the case is still in progress and accused person is required to be arrested.
3. In objections the prosecution has resisted the instant bail application mainly on the grounds that the alleged offences are non bailable in nature and the accused person cannot stake claim to seek bail as a matter of right. It is further submitted that the report of I.O is in detail and the same has been filed before the court and the same may also be read in conjunction with these objections. Furthermore, there is every apprehension of accused person jumping over the

bail and tampering with the prosecution witnesses in case he is enlarged on bail. At the end it has been prayed that the bail application may kindly be rejected.

4. It is pertinent to mentioned here that the accused person has surrendered himself today before this court and he is handed over to the prosecution wing of this court till further order.
5. Learned defense counsel for the accused while claiming bail of the accused person has submitted that the accused person has been wrongly roped in a false and frivolous case. The accused person has not committed any offence as alleged in the FIR. The prosecution has not brought on record any anything to show that the accused person is of such character as would jump over the bail, if granted. The liberty of the accused person cannot be curtailed on the basis of mere allegations. The accused person may be released on bail, so that he can prepare his defense, other-wise if he is not released on bail, it will amount conviction without trial.
6. While advancing his arguments the learned A.P.P has submitted that the investigation is in progress and in case the accused persons enlarged on bail at this stage, there is every apprehension that he will misuse the concession of bail and tamper with the prosecution evidence.

7. I have heard the learned APP, learned defence counsel and perused the record available on the file. The accusations against the accused person herein are indeed very grave and it is equally true that investigation is going through. However, this fact cannot be ignored that liberty of an individual is equally important and cannot be curtailed unless reasonably required for the purposes of investigation.
8. Grant of bail is a rule and its refusal is an exception but while granting bail, the court has to be satisfied that in a given case its grant is necessary in the interest of justice. The court has to see whether the grant of bail would thwart the course of justice or would further the course of justice. The court has also to consider the right of the investigating agency in the conduct of proper, effective and expeditious investigation of the case and also protect the conflicting rights of the complainant and the accused person.
9. Besides investigation requirement, the purpose of detaining a person in custody is to ensure that he is available to face the trial and if this purpose can be secured by other means i.e. sufficient surety in the shape of bail bond and personal bond are taken from the accused person that he will be available to face the trial, the law must lean in favor of admitting the accused person on bail. Grant of bail does not mean the absolute release of accused person from the

clutches of law but it means taking the accused person from police or judicial custody and handing over to a responsible person of the society who assure the court that the accused person cooperate with the investigation and will turn up to face the trial and will not betray the confidence the court may put on him.

10. In the case at hand the alleged offences are not punishable with life imprisonment or death, hence the embargo laid under section **437 (1) of Code of Criminal Procedure** is not attracted. The court is empowered to impose any condition upon the accused person to ensure his presence before the Court to face the trial. But to curtail the liberty of the accused person and to keep him behind the bars with the apprehension that he will not turn up to face the trial will amount to taking away precious fundamental right of his free movement, when he is ready to assure the court that he would not hamper the trial.
11. On the basis of what has been said and discussed above I am convinced to believe that a case for grant of bail has been made out. Hence, the instant bail application is accepted and the accused person is released on bail provided that he will furnish bail bond of Rs. 20,000/- each and personal bond of like amount with the conditions that

- (I) The accused person will not leave the jurisdiction of U.T of Jammu and Kashmir without prior permission.
- (II) The accused person will not tamper with the prosecution witnesses.
- (III) The accused person will make himself available before the I.O when reasonably required and fully cooperate with him.

12. After obtaining the requisite bail bond criminal clerk shall issue a docket to SHO Police Station Surankote directing him not to arrest the accused person in case FIR No. 170/2023 under sections 341,323 IPC, from the custody after he furnish personal bond of like amount. With these observations the application is disposed off and shall be consigned to record after its due compilation.

**Announced:
18.07.2023**

**Sub-Judge/JMIC
Surankote**