

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

Bail App No. 296/2024
c/w
CRM(M) No. 866/2023
CrIM Nos. 2151/2023, 658/2024,
1166/2024, 1689/2023 & 1690/2023

Ali Mohd. Th. Wife Salima BegumAppellant(s)/Petitioner(s)

Through: Mr. H. C. Jalmeria, Advocate
vs

UT of J&K and anr. Respondent(s)

Through: Mr. Vishal Bharti, Dy. AG

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

ORDER
07.03.2025

Bail App No. 296/2024

1. This application is for grant of bail in FIR No. 0222/2023 registered with Police Station Samba on 14.09.2023 under Section 376(2)(l), 313, 420, 506 IPC. The petitioner had earlier moved the bail application before the court of Principal Sessions Judge, Samba but the same was rejected vide order dated 25.11.2024. The petitioner has also filed CRM(M) No. 866/2023 which is connected with the present application for assailing the FIR registered against the petitioner and the common grounds have been raised by the petitioner in the present bail application as well as in the petition for quashing the FIR.
2. It is stated that the complainant has herself claimed to be the wife of the petitioner, regarding which, she had initiated the proceedings under Section 125 Cr.P.C. before JMIC, Billawar. The application of

the complainant was resisted by the petitioner in the month of November, 2022 and thereafter, false and frivolous FIR was registered on 14.09.2023. The petitioner has placed on record the application filed by the complainant-respondent No. 2 under Section 125 Cr.P.C. for grant of maintenance. The petitioner was arrested on 14.09.2023 as is evident from the charge sheet produced by Mr. H. C. Jalmeria, Advocate. It needs to be noted that the petitioner had also filed miscellaneous application for grant of bail along with CRM(M) No. 866/2023 and the complainant had responded to same by submitting that she does not oppose the petition for quashing the application filed by the petitioner along with petition for quashing the FIR.

3. The respondent No. 1 has filed response, stating therein the factual aspects of the case. In the objections, it is stated that offence under Section 313 IPC could not be proved but offences under Section 376(2) (L)/420/506 IPC stand proved against the petitioner.
4. Mr. H. C. Jalmeria, learned counsel for the petitioner submits that the petitioner is in custody for the last more than 1.5 years and in view of the peculiar facts and circumstances of the case, the petitioner deserves to be enlarged on bail when the complainant herself has admitted that she is the wife of the petitioner and has filed the objection stating therein that she does not oppose the petition for quashing the FIR and bail application.
5. Per contra, Mr. Vishal Bharti, learned Dy. AG has submitted that the allegations against the petitioner are very serious in nature, as such, no leniency deserves to be shown to the petitioner.

6. Heard learned counsels for the parties and perused the record.
7. Normally this Court would not have granted the bail in view of serious allegations but taking into consideration that the complainant herself has stated that she is the wife of the petitioner and she has no objection to the petition for quashing the FIR and the application for grant of bail, this Court is of the considered view that the petitioner deserves to be enlarged on bail particularly when the petitioner has been in custody since September, 2023. Accordingly, the present bail application is allowed, subject to the following conditions:-
- (i) That the petitioner shall furnish two solvent sureties to the tune of Rs. 50,000/- to the satisfaction of learned trial court and personal bond of the like amount.
 - (ii) That he shall appear before the trial court on each and every date of hearing.
 - (iii) That he shall not leave the territorial jurisdiction of UT of J&K without prior permission of the trial court.
 - (iv) That he shall not make any attempt to contact with the prosecutrix or any of the witnesses during the course of trial.

8. **Disposed of.**

CRM(M) No. 866/2023

9. Mr. H. C. Jalmeria, learned counsel for the petitioner submits that the petitioner be permitted to withdraw the present petition with liberty to raise the grounds urged in the present petition before the trial court.

10. The present petition is **dismissed as withdrawn** with liberty, as prayed for.

(RAJNESH OSWAL)
JUDGE

Jammu
07.03.2025
Neha-II

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

