

IN THE COURT OF JUDGE SMALL CAUSES SRINAGAR

Case No.	2592289/2022, 19/2022
CNR No.	JKSG030501002022
Date of Institution	24.08.2022
Date of Order	25.08.2022

In the case of:

Mudasir Nazir Wani S/o Nazir Ahmad wani
R/o Kursu Padashi-I-Bagh Srinagar, Jammu and Kashmir.
(...Applicant)

Through: Ms. Ishrat Maqbool Bhat Advocate

VERSUS

UT through SHO P/S Women's Police Station
Rambagh, Srinagar.
FIR No.39/2022 Under Sections 498-A, 406 IPC.
(...Non-Applicants)

Through: APP

In the matter of:

Application in terms of Section 437 of Cr.PC in complainance to the order Dated: 26.07.2022 for grant of regular bail.

CORAM: FAYAZ AHMAD QURESHI (JO Code: JK00169)

O R D E R

- 1) The instant bail application along with police report and copy of pre-arrest bail order dated: 26.07.2022 of Hon'ble Court of 1st Addl. Sessions Judge Srinagar, has been received by way of transfer from the court of Ld. Chief Judicial Magistrate Srinagar for disposal under law.
- 2) The Ld. Counsel for the applicant/accused person has submitted that applicant has applied before the Hon'ble Court of 1st Addl. Sessions Judge, Srinagar, for an anticipatory bail which was granted by the court on 26.07.2022 upto 25.08.2022 and Hon'ble

Court directed the applicant/accused person to appear before the Magisterial court for seeking regular bail. However, as per the order supra, the concerned police has refrained from arresting the accused person upto 25.08.2022 till the accused person approaches the concerned court for regular bail. The applicant is married to one namely Saima Mudasir in the year 2009 and out of the said wedlock two children are born aged 12 and 10 years respectively. The relation between the applicant and his wife is stressed knowing various issues related to his property. The in laws used the wife of the accused to lodge the instant FIR. The accused is ready to comply with all the directions that may be imposed by this court. On these grounds, the Ld Counsel for the applicant has prayed for grant of bail in favour of the applicant.

- 3) Police report reveals that the accused person is involved in case FIR No. 39/2022 Under section 353 IPC of t Police Station Safakadal.
- 4) On presentation of the application, objections have been called which are on record of the file.
- 5) The prosecution has submitted objections to the application averring therein that the accused person is involved in the commission of non-bailable serious offences. The investigation of the case is going on and prima-facie the offences are established against the accused as per the evidence collected by the investigating agency. Besides, the accused above named is involved in intra religion offence which aspect is required to be taken into account very seriously while passing any order in the above titled bail application. The investigation of the case is at initial stage and in case the bail application in hand is allowed,

there is every chance that accused person will hamper prosecution evidence and flee from justice as the accused has committed the serious offence. On the above grounds, Ld APP prayed for rejection of instant bail application in the interests of justice.

6) This court called CD. Perused the same. CD is returned today after perusal.

7) Heard the Ld. APP for the UT and Ld. Counsel for the accused/applicant

8) It is contended by the Ld. APP the accused/person is involved in heinous offence, in case the bail is granted to him at this stage he will tamper and hamper with the prosecution evidence. However, the Ld. counsel for the accused/applicant submitted that he has approached before the Hon'ble Court of 1st Addl. Sessions Judge Srinagar for pre-arrest bail order, whereby the Hon'ble court has passed an order dated: 26.07.2022 upto 25.08.2022 with the direction to the applicant to approach Magisterial Court for regular bail. Ld. counsel prays that otherwise also bail is rule and its denial is an exceptional and in case bail is granted, accused is not exonerated from allegations and he is only released from custody into the custody of the sureties.

9) Considering the above mentioned circumstances, particularly the fact that right to liberty is a fundamental right and bail is a rule and denial exceptional, the application for grant of bail to accused/applicant is allowed and accused is admitted to bail subject to furnishing of bail/surety bonds to the tune of Rs.50,000/- on the followings conditions:

(i) That the accused will not leave the territorial jurisdiction of this

court without seeking prior permission from the court.

(ii) That the accused will not try to win over or influence the prosecution witnesses in any manner.

(iii) That the accused will appear before the I/O as and when directed/required for investigation purposes.

10) The application is accordingly disposed off. File be complied and consigned to records.

**Announced:
25 .08.2022.**

**Fayaz Ahmad Qureshi (JK00169)
Judge Small Causes Court
Srinagar**