

In the Court of 1st Additional Sessions Judge, Baramulla.

File No. IA/02/2026 & IA/03/2026

IN

CNR No. JKBA010021952022

Date of Institution: 27.02.2026

Date of Order: 06.03.2026

In the case of:

State (Now UT) of J&K through P/S Baramulla

FIR No. 50/2016 U/S 7/25 I. A. Act, 307 RPC & 14 F. Act

.....Prosecution

Through: Mr. Yasir Arafat, Learned APP.

VERSUS

1. Mohammad Sidiq Gujar S/O Mohammad Jameel Gujar
R/O Sialkot Pakistan Gutali Kalan.

2. Abdul Rehman Mughal S/O Mohammad Sadiq Mughal
R/O Pouch POK, Pakistan

3. Farhan Fayaz Lullo S/O Fayaz Ahmad Lullo
R/O Mohalla Jamia Baramulla.

4. Ayaz-ul-Islam Payer S/O Mushtaq Ahmad Payer
R/O Gugloosa Bala Trehgam Dist. Kupwara

.....Accused

Through: Applicant/accused No. 1 lodged at Central Jail, Agra

Applicant/accused No. 3 lodged at Kot Bhalwal Jail, Jammu

Adv. Ashfaq H. Wani, Dy. CLADC, Bla for applicants/accused 1 & 3

In the matter of :

Application(s) seeking direction to Superintendent Central Jail, Agra & Superintendent Kot Bhalwal Jail, Jammu for taking the accused/applicants namely Mohammad Sidiq Gujar & Farhan Fayaz Lullo to GMC or any other super specialty hospital for medical checkup and provide proper medical treatment, besides ensuring compliance with the earlier orders passed by this court.

CORAM: Aadil Mushtaq

J. O. Code: JK-00163

ORDER

1. At the outset, it may be observed that the present applications raise a grievance relating to medical examination and treatment of the applicants who are presently in judicial custody, and therefore the

matter concerns the duty of custodial authorities to ensure proper medical care to persons deprived of their liberty. Since the applicants are under the custody of the State, this Court is required to satisfy itself that necessary medical attention is made available to them in accordance with law and the applicable prison rules.

2. By this common order, this Court proposes to dispose of two applications filed on behalf of the applicants/accused namely Mohammad Sidiq Gujjar and Farhan Fayaz Lullo through their learned counsel, whereby directions have been sought against the Superintendent Central Jail, Agra and Superintendent Kot Bhalwal Jail, Jammu to take the applicants to a Government hospital or any other super specialty medical institution for proper medical examination and treatment.
3. Learned counsel for the applicants submits that accused Mohammad Sidiq Gujjar is suffering from ophthalmological complications affecting his vision, whereas accused Farhan Fayaz Lullo is stated to be suffering from Deviated Nasal Septum (DNS) resulting in breathing difficulties. It is submitted that both ailments require examination and treatment by specialized doctors and that the condition of the applicants is worsening with time.
4. On presentation of the applications, response was invited from the learned APP. Learned APP has submitted that the ailments mentioned

in the applications can be managed within the prison system as medical facilities and doctors are available in the respective jails.

5. Heard learned counsel for the parties and perused the record. The main file has also been called and examined.
6. The record reveals that earlier also an application had been moved on behalf of accused Mohammad Sidiq Gujjar on 24.11.2025, which came to be allowed by this Court vide order dated 27.11.2025, whereby the Superintendent Central Jail, Agra was directed to have the accused medically examined and treated by a specialized doctor under the applicable prison rules and to submit a compliance report before the next date of hearing.
7. However, despite the clear directions issued by this Court, no compliance report has been received till date while as it has been complained by both the applicants that despite directions, jail authorities have not acted. The absence of such compliance prima facie reflects non-adherence to the judicial directions of this Court, which cannot be viewed lightly. Orders passed by a Court of law are binding and are expected to be complied with promptly and faithfully by all authorities concerned.
8. It is well settled that a prisoner or an under-trial does not cease to be a human being merely because he is confined in prison. The right to life and personal liberty guaranteed under Article 21 of the

Constitution of India extends equally to persons in custody. The Hon'ble Supreme Court in *Sunil Batra v. Delhi Administration*; *Hussainara Khatoon v. State of Bihar*; *Parmanand Katara v. Union of India*; and *D. K. Basu v. State of West Bengal* has consistently held that prisoners retain all fundamental rights except those necessarily curtailed by the fact of incarceration and that the State carries a heightened duty of care towards persons in its custody.

9. It also needs to be emphasized that once a person is taken into custody by the State and lodged in prison, the entire responsibility for his safety, health and well-being lies upon the State and its custodial authorities. A prisoner is placed in a position where he cannot independently seek medical assistance, and therefore the State assumes the role of a custodian and protector of his basic human rights, including access to necessary medical care.
10. At this stage, although the record prima facie indicates that the earlier order dated 27.11.2025 has not been complied with, this Court refrains, for the present, from initiating coercive proceedings against the concerned officials. However, the authorities concerned are expected to appreciate the seriousness of the matter and to ensure prompt and faithful compliance of the directions contained in this order as well as the earlier order passed by this Court.

11. In view of the submissions made in the present applications and considering the nature of ailments alleged by the applicants, it is deemed appropriate to issue necessary directions to ensure that the applicants receive proper medical examination and treatment.
12. Accordingly, a copy of the respective applications along with this order is forwarded to the Superintendent Central Jail, Agra and Superintendent Kot Bhalwal Jail, Jammu with direction to ensure that the accused namely ***Mohammad Sidiq Gujjar S/O Mohammad Jameel Gujjar R/O Siyalkote, Pakistan and Farhan Fayaz Lullo S/O Fayaz Ahmad Lullo R/O Mohalla Jamia Baramulla***, presently lodged in their respective jails, are medically examined by the concerned medical officer and referred to appropriate specialized doctors under the applicable prison rules. In case the medical officer concerned deems it necessary, the accused shall be referred to a Government hospital or other super specialty medical institution for proper diagnosis and treatment.
13. It is, however, clarified that while ensuring the medical examination and treatment of the accused, the concerned jail authorities shall strictly adhere to the applicable prison rules, security protocols and administrative guidelines governing the movement of prisoners, particularly in cases involving foreign nationals and inmates lodged in high security prisons. The responsibility of ensuring compliance

with the directions contained in this order shall personally lie upon the Superintendent Central Jail, Agra and Superintendent Kot Bhalwal Jail, Jammu, as the case may be. The concerned jail authorities shall also forward the medical examination reports, treatment records, prescriptions and opinion of the concerned specialist doctor to this Court before the next date of hearing, so as to enable this Court to satisfy itself regarding compliance of the present order and the earlier order dated 27.11.2025.

14. The concerned authorities are expected to treat the present directions with the seriousness they deserve and to ensure strict and prompt compliance in letter and spirit, keeping in view the constitutional obligation of the State to safeguard the life, health and dignity of persons in custody.

15. It is made clear that failure to comply with the directions of this Court shall compel this Court to take appropriate action in accordance with law against the officials responsible for such non-compliance.

16. Before parting with the matter, it is reiterated that the health and well-being of persons in custody remains the responsibility of the State and its custodial authorities, and the constitutional guarantee under Article 21 of the Constitution of India continues to operate even within the prison walls. The authorities entrusted with custodial administration are therefore expected to discharge their duties with

due care and responsibility and to ensure faithful compliance of judicial directions relating to the medical treatment of prisoners.

17. With the aforesaid observations and directions, the present applications stand disposed of. After due completion, the same be made part of the main file.

Announced:
06.03.2026

Ist Addl. Sessions Judge,
Baramulla.