

S.No. 94
Regular List

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) 149/2025 CrIM(319/2025)

ABID MEHRAJ SHAH

...Petitioner(s)/Appellant(s)

Through: Mr. Mir Majid Bashir, Advocate

Vs.

UNION TERRITORY THROUGH POLICE
STATION SHOPIAN (HOME)

...Respondent(s)

Through: Mr. Faheem Nisar Shah, GA

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER

11-04-2025

1. A very precarious position comes to be presented before this Court.
2. Through the medium of this petition, the petitioner as an under-trial in custody with respect to whose place of custody being lodged at the Central Jail Srinagar, the trial court of Special Judge, Designated NIA Court for Shopian and Kulgam District came to pass an order in response to an application made by the prosecution for shifting the petitioner out of UT of J&K to be lodged in District Jail Gurugram by virtue of an order dated 02.01.2025, came to allow the application so filed with respect to shifting of the place of custody of the

petitioner from the Central Jail Srinagar to District Jail Gurugram under an intimation to the court.

3. The petitioner who is said to be a physically challenged person came to apply for short term bail on file No. 03/2025 on 05.02.2025 i.e., after passing of order dated 02.01.2025 related to shifting of his place of custody outside UT of J&K.
4. The application so filed by the petitioner for short term bail came to be allowed in terms of an order dated 11.02.2025 granting the petitioner bail up to 11th April, 2025 i.e., today requiring him to surrender immediately.
5. In the bail order dated 11.02.2025, the trial court came to direct not the Superintendent District Jail Gurugram to release the petitioner on bail but the Superintendent Central Jail Srinagar meaning thereby that in terms of the direction of the court in its said order dated 02.01.2025, the trial court was never intimated about the fact whether the petitioner's custody had been shifted from Central Jail Srinagar to District Jail Gurugram or in other words the petitioner was never shifted from Central

Jail Srinagar to District Jail Gurugram by the UT of J&K despite asking for his shifting.

6. Reasons for this default are best known to the UT of J&K through its Home Department.
7. The petitioner is said to have lawfully surrendered himself today before the trial court and remanded to the Central Jail Srinagar.
8. The petitioner apprehends that he may be shifted to District Jail Gurugram in terms of order dated 02.01.2025 unmindful of his health condition particularly his physical disability.
9. In this case, this Court, in terms of an order dated 25.03.2025, issued notice to the respondent which came to be accepted by Mr. Furqan Yaqub Sofi, learned GA who sought time to file the objections which have not been filed so far.
10. On 4th April, 2025, this Court again insisted for filing of the objections reserving right in favour of the petitioner to consider his application for interim for today's date.
11. Objections have not been filed.

12. Even if the objections would have been filed still the disposal of the main petition would not have taken place and, therefore, the interim application filed by the petitioner would have been admissible for consideration and which is, accordingly, being considered.

13. Let response to the petition as well as the application be filed by the respondent.

14. List on 21st April, 2025.

15. In the meantime, the petitioner's place of custody be not shifted outside UT of J&K and the petitioner to continue to stay lodged as an under-trial in the Central Jail Srinagar.

16. Given the seriousness of the situation that on the one hand the change of custody place of the petitioner is/was solicited by the Home Department from the court which came to be granted and despite that the petitioner was not changed in terms of his custody to be lodged in District Jail Gurugram till the petitioner came to file application for bail which came to be allowed on 11th February, 2025, this Court is constrained to direct the Principal Secretary,

Home Department who was the applicant seeking shifting of place of custody of the petitioner outside UT of J&K to submit response affidavit in the present case under his own seal and signature.

(RAHUL BHARTI)
JUDGE

SRINAGAR:
11-04-2025
Mubashir

