

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

Bail App No. 32/2023  
CrIM No. 145/2023  
c/w  
CRM(M) No. 95/2023  
CrIM No. 146/2023

Surjeet Kumar .....Appellant(s)/Petitioner(s)  
Through: Mr. M. A. Bhat, Advocate.  
**vs**  
UT of J&K and others ..... Respondent(s)  
Through: None.

**Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE**

**ORDER**

The petitioner has challenged FIR No. 2/2023 dated 07.01.2023 for commission of offence under Section 376 IPC registered with Police Station, Khour, Jammu. The petitioner has also moved an application for grant of bail in anticipation of his arrest in the aforesaid FIR.

It is contended by the learned counsel for the petitioner that the allegations made in the impugned FIR are improbable and there is no explanation in the FIR as to why the prosecutrix has remained silent for about four years before lodging the aforesaid FIR. Learned counsel for the petitioner has further submitted that as per the judgment of Supreme Court rendered in *"Lalita Kumari vs. State of UP"* reported in **(2014) 2 SCC 1**, once there is delay in lodging of FIR, it was incumbent upon the learned Magistrate to direct preliminary inquiry before issuing direction for registration of FIR, which he has not done. It is also contended that a bare perusal of the FIR impugned would show that the prosecutrix has been in relationship with the petitioner for a number of years and as per her own version, she had sexual relationship with the petitioner on a number of occasions, but she did not narrate these incidents to her parents at any point of time.

Having heard learned counsel for the petitioner and having perused the material on record, a case for grant of interim indulgence in favour of the petitioner is made out.

Issue notice to the respondents, returnable within a period of four weeks.

Notice be sent to the official respondent through Mr. Pawan Dev Singh, learned Dy. AG. Notice be sent to the respondent Nos. 2 and 3 through the concerned Police Station.

Learned counsel for the petitioner shall furnish copy of the petition/bail application to Mr. Pawan Dev Singh, who shall file response to the same, by or before the next date of hearing.

List on 18.03.2023.

In the meanwhile, it is provided that investigation in the impugned FIR shall go on but in case respondent No. 1 tends to file challan against the petitioner, the same shall be done only with the prior permission of this Court. It is also directed that in the event of petitioner's arrest in the impugned FIR, he shall be released on bail, subject to following conditions:

1. That he shall furnish bail bond with one surety for an amount of Rs. 50,000/- to the satisfaction of the Investigating Officer.
2. That he shall cooperate with the Investigating Agency and shall not tamper with the prosecution witnesses.
3. That he shall not leave the limits of Union Territory of J&K without prior permission of the Investigating Officer.

**(SANJAY DHAR)**  
**JUDGE**

**Jammu**  
06.02.2023  
Sahil Padha