

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

Case:- Bail App no. 86/2022
c/w
CRM(M) No. 132/2022

Fazal Noor and others

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

Through: Mr. Umar Shakeel, Advocate vice
Mr. A. M. Malik, Advocate

Vs

UT of J&K

..... Respondent(s)

Through: Mr. Bhanu Jasrotia, GA

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

ORDER
09.12.2024

Bail App No. 86/2022

01. The institution of the present bail petition of the petitioner has taken place simultaneously with the institution of the petition CRM(M) No. 132/2022 also by the petitioner thereby seeking quashment of FIR No. 0025/2022 dated 27.02.2022 registered by the Police Station Surankote, district Poonch for alleged commission of penal offences under section 452 i.e. house-trespass after preparation for hurt, assault or wrongful restraint section 323- voluntarily causing hurt & section 336- act endangering life or personal safety of others of the Indian Penal Code.

02. The registration of the FIR came to take place at the instance of the complainant/first informant- Nazeera Bi W/o Mohd. Zaman.

03. Registration of the FIR is dated 27.02.2022, whereas the institution of the bail application for pre-arrest bail is 04.03.2022 meaning thereby three days post registration of FIR and the petitioner rushed to this Court for seeking pre-arrest bail and also quashment of FIR No. 025/2022.

04. In terms of an order dated 08.03.2022, this Court came to extend an interim indulgence in favour of the petitioners directing that in the event of arrest of the petitioners taking place in connection with the investigation of said FIR, the petitioners to be set free on interim bail subject to the terms and conditions as laid down in the order dated 08.03.2022.

05. Given the fact that the respondent's side i.e. Police Station Surankote had not come forward, all along during the pendency of this petition, with any adverse input against the petitioners that they have stayed away from the respondents to the call of the Investigating Officer with respect to attending the investigation, as such, this Court is of the opinion that the interim bail granted in terms of the order dated 08.03.2022 in favour of the petitioners is eligible to be made absolute by disposal of this bail petition.

06. It is, therefore, directed that in the event of the petitioners being arrested by the Investigating Officer in FIR No. 0025/2022 dated 27.02.2022 of the Police Station Surankote, district Poonch, the petitioners to be released on bail on the terms and conditions as

the IO concerned or for that matter the SHO Police Station Surankote may deem fit in the facts and circumstances to be placed upon the petitioners.

07. In the event of the petitioners not responding to the call of the Investigating Officer (IO) in attending the investigation and/or violating any terms and conditions on which upon their arrest they are to be set free on terms and conditions of bail as may be set out by the Investigating Officer concerned or the SHO Police Station Surankote then the SHO Police Station Surankote shall be entitled to approach the Court of Principal Sessions Judge, Poonch for seeking cancellation of arrest bail hereby being granted by this Court and the Court of Principal Sessions Judge, Poonch shall be well within its discretion to adjudge and adjudicate the matter with respect to cancellation of petitioners' bail on its merits.

08. Bail petition is, accordingly, **disposed of.**

CRM(M) No. 132/2022

09. The institution of the present petition CRM(M) No. 132/2022 by the petitioners has taken simultaneously with the institution of the bail petition Bail App No. 86/2022 seeking grant of pre-arrest bail in FIR No. 0025/2022 dated 27.02.2022 registered with the Police Station Surankote, district Poonch against the petitioners for alleged commission of offences under section 452 i.e. House-trespass after preparation for hurt, assault or wrongful

restraint, section 323- Punishment for voluntarily causing hurt & section 336- Act endangering life or personal safety of others of the Indian Penal Code.

10. In this case, the petitioners have impleaded the complainant/ first informant – Nazeera Bi as the respondent No. 3 on whose behalf Advocate Mehmood A. Shad came to cause his appearance by filing of his vakalatnama dated 15.02.2023. Before that some other Advocates had caused appearance on her behalf by filing vakalatnama, meaning thereby the respondent No. 3 is well conscious of the fact that she is being represented in a cause. Given the fact that with respect to FIR No. 0025/2022, this Court in terms of an order dated 08.03.2022 came to order stay of the investigation meant that just for intervening eight days with effect from the date of registration FIR and passing of the order dated 08.03.2022 some investigation must have taken place in the case and thereafter getting stayed.

11. This Court modifies the order dated 08.03.2022 by permitting the resumption of investigation with respect to FIR No.0025/2022 by the Police Station Surankote, district Poonch, but the final outcome of the investigation, be it in the form of a police challan or closure report whatsoever it may be, shall not be submitted before the competent criminal court by the Police Station concerned without prior permission of this Court. Given the fact

that the investigation has remained stayed almost for a period touching three years, as such, the expediency requires that the investigation in the matter to be resumed by the SHO Police Station Surankote, district Poonch with due dispatch and to be completed within a period of next three months w.e.f. date of this order.

12. List this case on **10.02.2025**, on which date Investigating Officer concerned to remain present along with the case-diary file to apprise this Court about the updated status of the investigation.

JAMMU
09.12.2024
Muneesh

