

Parshotam Kumar vs Ut Of J&K And Another on 4 February, 2025

Author: Rajnesh Oswal

Bench: Rajnesh Oswal

Serial No. 119

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Bail App No. 284/2024
CrlM No. 1839/2024
c/w
CRM(M) No. 898/2024
CrlM No. 1838/2024

Parshotam Kumar

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

Through: Mr. Mohd. Ajmal, Advocate
Mr. Touqir Mustafa, Advocate.

vs

UT of J&K and another

..... Respondent(s)

Through: Mr. Eishan Dadichi, GA.
Mr. Kulbir Singh, SSP, Ramban
(Present through Virtual Mode)
Mr. Vikram Parihar, SHO, Police Station,
Batote and Investigating Officer Mr. Vikram
Choudhary, PSI (Present in person)

Coram: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE
ORDER

04.02.2025

1. Mr. Kulbir Singh, SSP, Ramban is present through virtual mode. SHO, Police Station, Batote, Mr. Vikram Parihar, Inspector and Investigating Officer, Mr. Vikram Choudhary, PSI are present in person along with the case diary.

2. Mr. Eishan Dadichi, learned GA seeks time to file detailed reply.

3. Time is granted. Let the needful be done by or before the next date of hearing.

4. List on 17.02.2025.

c/w

5. This is an application seeking bail in anticipation of arrest in FIR No. 134/2024 registered with Police Station, Batote under section 376, 452 and 506 IPC at the instance of respondent No. 2.

6. Umpteen opportunities were granted to the respondents to file response, despite that response has not been filed by the respondents till date. However, SHO, Police Station, Batote, Mr. Vikram Parihar, Inspector and Investigating Officer, Mr. Vikram Choudhary, PSI are present in person along with the case diary.

7. It is contended that there is a dispute between mother of the petitioner and Khem Raj, his brother, namely, Hem Raj and wife of Hem Raj i.e. the complainant herein with regard to some land and falsity of the FIR is evident from the fact that no date, month and year of the alleged offence of rape has been mentioned by the respondent No. 2, as the respondent No. 2 has alleged that the petitioner committed rape upon her about one and a half years ago.

8. This Court has perused the case diary and finds that the statement of the respondent No. 2 has been recorded.

9. Investigating Officer, Mr. Vikram Choudhary, PSI who is present in person submits that the prosecutrix has declined to get herself examined by the Doctor. SHO, Police Station, Batote, Mr. Vikram Parihar, Inspector who is also present in person submits that an application was submitted by the respondent No. 2 on 06.09.2024 and while the same was being enquired into by himself personally, the respondent No. 2 approached the learned Magistrate for registration of c/w the FIR and a report was sought by the Magistrate from the concerned Police Station. Thereafter, FIR was registered. In the FIR also, no specific date and month of the alleged offence of rape has been mentioned by the respondent No. 2.

10. Contention of the petitioner that the FIR has been lodged because of some land dispute, regarding which, mother of the petitioner has also filed a suit against the respondent No. 2, her husband and others cannot be rejected being baseless.

11. Be that as it may, in view of the above mentioned facts and circumstances of the case, this Court is of the considered view that the petitioner deserves protection.

12. Accordingly, it is directed that in the event of arrest of the petitioner, he shall be released on bail till next date of hearing subject to the following conditions:

i. That he shall furnish two solvent sureties to the tune of Rs.

50,000/- each to the satisfaction of Investigating Officer and personal bond of the like amount.

ii. That he shall not make any attempt to contact any of the prosecution witnesses including the prosecutrix during investigation/trial either physically or through any other mode. iii. That he shall appear before the Investigating Officer from

06.02.2025 to 16.02.2025 from 10.00 AM to 04.00 PM.

iv. That he shall not leave the territorial jurisdiction of UT of J&K without prior permission of the Investigating Officer.

c/w v. That in case any recovery is effected from the petitioner, the petitioner shall be deemed to be in custody for the purpose of proviso contained in Section 23 of the Bharatiya Sakshya Adhiniyam, 2023.

13. In the event of violation of any of the conditions mentioned above, the respondents can lay a motion before this Court for cancellation of bail of the petitioner.

14. Mr. Eishan Dadichi shall file a detailed status report before the next date of hearing with regard to the compliance of the conditions by the petitioner, imposed by this Court today. Respondent No. 2 shall also be at liberty to file response.

15. List on 17.02.2025.

(RAJNESH OSWAL) JUDGE Jammu 04.02.2025 Sahil Padha