2026:JKLHC-JMU:302

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Crl A(D) No. 37/2025

Reserved on: 07.02.2026
Pronounced on : 12.02.2026
Uploaded on: 13.02.2026
Whether the operative part or
full judgment is pronounced: "FULL"

Shabnam Akhter, Age 21 years **...Applicant(s)/Petitioner(s)**
W/o Zaffer Iqbal
R/o Bhall, Tehsil Mahore, District Reasi
At present District Jail Amphala, Jammu.

Through: - Mr. Arshad Hussain, Advocate

v/s

U.T. of Jammu and Kashmir Through Police Station Mahore **...Respondent(s)**

Through:- Ms. Monika Kohli, Sr. AAG

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

<u>JUDGMENT</u>

<u>Sanjay Parihar-J</u>

1. The present appeal has been preferred by the appellant challenging the order dated 07.07.2025 passed by the learned 3rd Additional Sessions Judge, Jammu (Special Judge under the NIA Act) (hereinafter referred to as "the Trial Court"), whereby the bail application of the appellant in FIR No. 109/2022 was rejected. The said FIR pertains to offences under Sections 120-B, 122 IPC, Sections 17, 18, 20, 23, 38 and 39 of the Unlawful Activities (Prevention) Act, Sections 4/5 of the Explosive Substances Act and Sections 7/25 of the Arms Act.

2. The factual matrix, in brief, is that on 14.09.2022 at about 9:00 p.m., Police Station Mahore received information from a reliable source that

one Zaffer Iqbal, husband of the appellant, had close links with the Lashkar-e-Taiba organisation. It was alleged that his brother, Mohd. Ishaq, had earlier been killed in an encounter while being associated with the said organisation, and that another relative, Abdul Rashid, was in Pakistan and linked with it. On the basis of this information, FIR No. 109/2022 came to be registered. Zaffer Iqbal was apprehended while travelling from Dharmari to Mahore and a mobile phone was recovered from his possession. During interrogation, he allegedly disclosed that he was in possession of prohibited arms and ammunition, including two Glock pistols, four magazines, twenty-two 9mm rounds, a hand grenade and cash amounting to ₹1.81 lakhs, which were stated to be concealed in a forest area. On the basis of his disclosure, the arms, ammunition and cash were recovered. He further disclosed that part of the cash had been handed over to the appellant, informing her that the amount had been received from Pakistan. The appellant was subsequently arrested on 15.09.2022 and it is alleged that during questioning she disclosed that she had kept the said cash at her parental house, from where the amount of ₹1.81 lakhs was recovered.

3. Upon completion of investigation, offences under Sections 120-B and 122 IPC, Sections 17, 18, 20, 23, 38 and 39 of the UAPA, Sections 4/5 of the Explosive Substances Act and Sections 7/25 of the Arms Act were found established against the accused persons. However, so far as the appellant is concerned, she was formally charged only under Sections 13, 38 and 40 of the UAPA. She has been in custody since 15.09.2022. It was submitted that the prosecution has examined twelve witnesses so far and that there is no likelihood of the trial concluding in the near future. The appellant

claims that she is a poor and innocent woman, falsely implicated, and that the case against her is founded mainly on disclosure statements which have no evidentiary value. It was also urged that the money allegedly recovered from her parental house had no nexus with any terrorist activity and that she had been married to the co-accused only a month prior to her arrest.

4. Per contra, the respondent opposed the appeal by invoking the bar under Section 43-D(5) of the UAPA. It was contended that the appellant's role was not peripheral but integral, inasmuch as she had knowingly received and retained money obtained through drone-dropped consignments from Pakistan, which was intended to fund terrorist activities. It was further contended that ₹1 lakh was deposited in her account in the form of an FDR immediately after receipt of the consignment and that the money trail did not align with the known sources of income of the co-accused. According to the respondent, the recovery of cash at the instance of the appellant, corroborated by bank records, established her complicity in providing logistical and financial support to a terrorist organisation.

5. Learned counsel for the appellant, however, argued that the entire case against her rests upon the disclosure statement of her husband and the alleged recovery of cash. It was submitted that the mobile phone relied upon by the prosecution belonged exclusively to the co-accused and that all communications with alleged handlers were between him and third parties. Given that the appellant had been married only a month prior to the incident, it was argued that she could not reasonably be expected to have knowledge of her husband's alleged activities. It was further contended that mere possession of money, even if accepted, does not

establish intention to further terrorist activities, particularly in the absence of any direct or circumstantial evidence linking the appellant to any proscribed organisation or handler.

6. We have, carefully considered the rival submissions and perused the material on record. The appellant stands charged under Sections 13, 38 and 40 of the UAPA. She has been in custody since 15.09.2022 and twelve witnesses have already been examined. The sole material relied upon against her is the recovery of ₹1.81 lakhs from her parental house, allegedly at her disclosure, which amount, according to the prosecution, formed part of a larger consignment of cash received by her husband from a Pakistan-based handler. However, a careful reading of the charge-sheet and the investigation report reveals that there is no material to indicate that the appellant had any direct nexus with the handler or that she had prior knowledge of the dropping or receipt of the consignment. All communications and instructions appear to have been exchanged exclusively between the co-accused and the handler.

7. It is not disputed that the appellant had been married to the co-accused barely a month prior to her arrest. The disclosure attributed to her merely indicates that she was handed over cash by her husband for safe custody and that she kept the same at her parental house. Whether such conduct establishes the requisite intention to further the activities of a terrorist organisation is a matter to be tested during trial. At this stage, the material does not prima facie demonstrate that the appellant shared the intention or knowledge required to attract offences under Sections 38 or 40 of the UAPA.

8. The legal position with regard to bail under the UAPA is well settled. In ***National Investigation Agency v. Zahoor Ahmad Shah Watali, (2019) 5 SCC 9***, the Supreme Court held that the Court must assess whether there are reasonable grounds for believing that the accusations are prima facie true, based on the totality of the material. In ***Union of India v. K.A. Najeeb, (2021) 3 SCC 713***, it was recognised that prolonged incarceration and the unlikelihood of an early conclusion of trial are relevant considerations in appropriate cases. While in ***Gurwinder Singh v. State of Punjab, 2024 INSC 92***, the Supreme Court cautioned that delay alone cannot justify bail in UAPA cases, it was also held that bail may be granted where the material against the accused is weak or shaky. Further, in ***Thwaha Fasal v. Union of India, (2022) 14 SCC 766***, the Supreme Court clarified that mere association or passive support is insufficient to attract Sections 38 and 39 of the UAPA unless accompanied by intention to further terrorist activities.

9. Applying the aforesaid principles to the facts of the present case, this Court is of the considered view that the appellant has been able to demonstrate that there are no reasonable grounds for believing that the accusations against her are prima facie true. Apart from being the wife of the co-accused and having been entrusted with cash for safe custody, there is no material to show her association with any proscribed organisation, any handler, or any overt act indicative of intention to further terrorist activities. There is also no allegation that she provided shelter, food, or logistical assistance to any militant or member of a terrorist organisation.

10. Though the offences alleged are undoubtedly grave, the continued incarceration of the appellant since 15.09.2022, in the absence of strong

prima facie material, would not serve the ends of justice. No material has been placed on record to suggest that her release on bail would result in tampering with evidence or influencing witnesses. The apprehensions expressed by the prosecution in this regard remain speculative.

11. Accordingly, we are satisfied that the appellant has successfully carved out a strong prima facie case for grant of bail. The appeal is allowed and the impugned order dated 07.07.2025 passed by the Trial Court is set aside. The appellant is granted bail subject to the following conditions:-

i. The appellant shall furnish a personal bond in the sum of ₹1,00,000/- with two sureties of the like amount to the satisfaction of the Trial Court;

ii. She shall appear before Trial Court on each and every date of hearing and shall not leave the territorial jurisdiction of the Union Territory of Jammu & Kashmir without prior permission of Trial Court;

iii. She shall not indulge in any offence similar to the one for which she stands charged.

12. Crl A(D) No. 37/2025 stands ***disposed of.*** Copy of the order shall be notified to the Trial Court for compliance.

(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
12.02.2026
Akhil Dev

Whether the order is speaking? : Yes

Whether the order is reportable? : Yes