

**IN THE COURT OF PRINCIPAL DISTRICT AND SESSIONS JUDGE
KUPWARA**

File No.	Instituted On 25.11.2025	Date of Order 08.12.2025
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CNR No.:

IN THE CASE OF:

UT of J&K through Central Bureau of Investigation, Camp Office, Srinagar

Through: Ld. PP, CBI, Mr. Zahoor Malik

VERSUS

1. Aijaz Ahmad Naik (Dy. SP, JIC Kupwara)
2. Riyaz Ahmad Mir (Sub-Inspector), S/o Mohammad Munnawar Mir, R/o Misri Behak Machil
3. Jahangeer Ahmad Beigh (SPO), S/o Gulzaman Beigh, R/o Rationpora Kralpora, District Kupwara
4. Mohd Younis Khan (Head Constable), S/o Sayidullah Khan, R/o Lassipora Sogam, District Kupwara
5. Shakir Hussain Khoja (Sg. Constable), S/o Mushtaq Ahmad Khoja, R/o Chankote Karnah, District Kupwara
6. Tanveer Ahmad Malla (Head Constable), S/o Abdul Aziz Malla, R/o Wangipom Sumbal, District Bandipora
7. Altaf Hussain Bhat (Sg. Constable), S/o Gh Mohi-u-din Bhat, R/o Lalpora Lolab, District Kupwara
8. Shahnawaz Ahmad Deedad (Constable), S/o Ab Jaleel Deedad, R/o Goose Kupwara, District Kupwara

...Accused

A-1 Through: Sr. Adv. Sunil Sethi

A-2 to A-8 through: Adv. Ashraf Malik & Adv. Ahrar Dar

Case/FIR No. RC-048202550008 of CBI dated 26.07.2025

Offences punishable U/S 120-B, 323, 325, 330, 331 and 343 IPC

IN THE MATTER OF: Applications seeking bail on behalf of the
above-named accused persons

CORAM: Manjeet Singh Manhas
J.O. CODE: JK00104

O R D E R

1. **By virtue of this combined order, I propose to dispose off two bail applications, one filed by Accused No.1 and another filed by Accused Persons No. 2 to 8.**

BRIEF FACTS OF THE CASE

2. The present case emanates from FIR No. RC-048202550008 dated 26.07.2025, registered by the Central Bureau of Investigation pursuant to directions of the Hon'ble Supreme Court of India in SLP (Criminal) Nos. 13751-13752 of 2023. The case concerns the alleged illegal detention, wrongful confinement, and custodial torture of Police Constable Khursheed Ahmed Chowhan at the Joint Interrogation Centre (JIC), Kupwara, during the period from 20.02.2023 to 26.02.2023. The complainant, Smt. Rubeena Akhter, wife of the victim, approached the Hon'ble Supreme Court alleging that her husband was subjected to brutal custodial torture by police personnel at JIC Kupwara under the pretext of investigating narcotics-related offences. The Hon'ble Supreme Court, taking cognizance of these serious allegations involving breach of fundamental rights and custodial violence, directed the CBI to register an FIR and conduct a thorough investigation into the matter.
3. The investigation conducted by Inspector Subhash Chander Kundu revealed that Khursheed Ahmed Chowhan was initially detained on suspicion of involvement in narcotics smuggling and was brought to JIC Kupwara for interrogation. During his detention from 20.02.2023 to 26.02.2023, it is alleged that the accused police personnel, in criminal conspiracy, subjected him to physical torture to extract confessions regarding narcotic smuggling activities. The chargesheet filed on 22.10.2025 implicates eight police personnel, including Dy. SP Aijaz Ahmad (A-1), SI Reyaz Ahmad Mir (A-2), SPO Jahangeer Ahmad Beigh (A-3), Head Constable Mohd Younis Khan (A-4), Sergeant Constable Shakir Ahmed (A-5), Head Constable Tanveer Ahmad

Malla (A-6), Sergeant Constable Altaf Hussain Bhat (A-7), and Constable Shahnawaz Ahmad Deedad (A-8), all attached to JIC Kupwara. The charges under the chargesheet include Sections 120-B (criminal conspiracy), 323 (voluntarily causing hurt), 325 (voluntarily causing grievous hurt), 330 (voluntarily causing hurt to extort confession), 331 (voluntarily causing grievous hurt to extort confession), and 343 (wrongful confinement) of the Indian Penal Code.

4. The investigation gathered substantial evidence including oral testimony from the victim Khursheed Ahmed Chowhan and his family members, documentary evidence in the form of medical reports, CCTV footage from JIC Kupwara dated 26.02.2023, and forensic evidence analyzed by the Central Forensic Science Laboratory (CFSL), Chandigarh. The medical examination conducted on Khursheed Ahmed Chowhan revealed injuries consistent with physical assault, particularly non-genital injuries on the buttocks and thighs, which medical experts opined were indicative of custodial torture. The CFSL analysis confirmed DNA matches of biological samples with the victim, corroborating the allegations of physical assault. CCTV footage from the interrogation center showed the victim's movements within the facility and his condition during detention, with footage specifically from 26.02.2023 showing him limping, which supports the allegations of physical abuse. The investigation also examined mobile phones and electronic devices seized during the inquiry, though NETRA Lab analysis revealed no significant digital evidence linking the devices to the alleged crimes.
5. Significantly, the investigation revealed that one Imtiyaz Ahmad, who was initially suspected to be involved in the case, was found

to be falsely implicated and his involvement was ruled out during the course of the investigation. The chargesheet notes that while the most serious charges under Sections 307 (attempt to murder) and 326 (voluntarily causing grievous hurt by dangerous weapons) of the IPC were initially contemplated, these charges were subsequently dropped, and the final chargesheet was filed under the aforementioned sections. The accused personnel have maintained their innocence, with their defense centering around the argument that the allegations are omnibus in nature without specific attribution of roles, that they were not present during the alleged incidents of torture, and that the investigation lacks concrete evidence directly linking them to the specific acts of violence alleged by the complainant.

6. The applicants had earlier sought bail from this Court, which was rejected vide order dated 04.10.2025 primarily on jurisdictional grounds and due to the presence of serious charges including Section 307 IPC at that time.
7. Perusal of the record would reveal that the chargesheet bearing was initially filed before the Ld. Chief Judicial Magistrate, Srinagar, along with the instant bail applications, however, upon examination of the nature of the offences alleged in the chargesheet and the quantum of punishment prescribed therefor, the Learned Chief Judicial Magistrate found that the matter was beyond the jurisdictional competence of the Court of Chief Judicial Magistrate to try and dispose of. Consequently, vide order dated [insert date], the Learned Chief Judicial Magistrate committed the chargesheet along with all connected applications, including the bail applications filed by the accused persons, to this Court for disposal in accordance with law. Accordingly, the matter now stands before this Court for

adjudication on the bail applications filed by the accused persons under Section 480 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

8. GROUNDS OF BAIL APPLICATION - ACCUSED NO. 1 (AIJAZ AHMAD NAIK)

- a. *That the applicant is a permanent resident of Union Territory of J&K, a well-reputed Officer in the Police Department presently posted as Deputy Superintendent of Police (Dy. S.P-DAR Anantnag), and being a law-abiding citizen, is entitled to invoke the jurisdiction of this Court to protect his legal, fundamental and constitutional rights.*
- b. *That the applicant has served the Government of Jammu & Kashmir in Police administration on various capacities with integrity, dedication, and without blemish for over 13 years and has been awarded numerous Medals & Commendations including DGP Medal/Commendation Certificate, 14 appreciation Certificates & 02 JKPMG Medals.*
- c. *That the applicant has been implicated in a false, frivolous, bogus, vague and concocted FIR wherein baseless and contradictory allegations have been leveled by Rubeena Akhter W/o Khursheed Chowhan, and the challan stands presented without proper sanction by the government/competent authority as envisaged under law.*
- d. *That the applicant was arrested on 20.08.2025 and has been in custody since that date, now exceeding three months.*
- e. *That a crucial and material change of circumstance has occurred since the previous bail rejection. The CBI has presented the challan on 22.10.2025 wherein the most serious charges under Sections 307 (Attempt to Murder) and 326 (Grievous Hurt by Dangerous Weapons) have been DROPPED. This development completely undercuts the core allegations and the legal impediment of Section 307, which was the cornerstone of previous bail rejection, no longer exists.*
- f. *That on 17/09/2025, the applicant preferred a regular bail application which was rejected vide order dated 04/10/2025 by CJM Srinagar for want of jurisdiction. However, the said serious sections have now been dropped in the challan and investigation is complete.*
- g. *That the applicant is in custody since 20.08.2025 and the bail application deserves to be allowed as there is significant change in circumstances. The investigation stands completed and challan has been presented. Keeping the applicant in jail further will violate his right to liberty and amounts to pre-trial punishment.*

- h. *That perusal of the challan filed by CBI reveals that nothing incriminating has been found against the applicant and no case is made out against him.*
- i. *That the applicant is neither involved in any illegal act nor has committed any offence whatsoever throughout his life and has a very good moral character and is a publicly acknowledged reputed officer.*
- j. *That the applicant is implicated on hypothetical assumptions and is not connected with the commission of offence of any nature. Had the applicant committed any offence, he would not have cooperated with the investigating officer from the beginning and appeared on a simple departmental message.*
- k. *That the applicant was not even present at or near the alleged place of occurrence at the relevant time, which fact stands corroborated by CCTV footage and can be verified from statements on record.*
- l. *That while the FIR has been registered pursuant to directions of the Apex Court, it is well-settled law that such directions do not reflect any opinion on the merits of allegations nor curtail the jurisdiction of competent courts. This has been explicitly mentioned in paragraph 39 of the Supreme Court judgment which states: "Nothing contained in this order shall be construed as expressing any opinion on the merits of any other prosecution, and proceedings arising therefrom shall go on independently and uninfluenced by the present findings, in accordance with Law."*
- m. *That the prosecution's entire case rests on uncorroborated statements of the complainant and her husband whose credibility is seriously undermined. Bald allegations without substantive corroboration cannot form the sole basis of continued incarceration.*
- n. *That Article 21 of the Constitution guarantees the right to personal liberty which can be curtailed only in accordance with just, fair and reasonable procedure. The applicant has been in custody since 20/08/2025 and continued incarceration amounts to pre-trial punishment which is not permissible under law.*
- o. *That the parents of the applicant are old aged senior citizens, indisposed, and the applicant has minor children. His spouse is wholly and solely dependent upon him as the sole bread earner of the family. Keeping him in custody would mean days of starvation and deprivation from proper care and attention for his family.*
- p. *That the offences reflected in the challan are not punishable by life or capital punishment. The alleged incident mentioned in the FIR is of February 2023 and is only in vengeance to the investigation done by the Police Department against accused Khursheed Chowhan, which is clear indication that the story is concocted and bogus.*

- q. That the applicant is entitled to bail as a matter of right as all offences as envisaged in the challan are not made out against him as per the challan itself.
- r. That the applicant is strongly rooted in government services and therefore any chance of non-cooperation with the investigating agency or any misdemeanor is out of question. The applicant assures full cooperation and is ready to furnish personal bonds.
- s. That the applicant shall abide by and adhere to all terms and conditions imposed by this Court and shall not leave the territorial jurisdiction without prior permission. The applicant shall not hamper or tamper with prosecution evidence.
- t. That the settled legal position as laid down by the Hon'ble Supreme Court in **Sanjay Chandra v. CBI (2012) 1 SCC 40** is that bail is the rule and jail is the exception, particularly where guilt is yet to be established and the offence does not carry death or life sentence. Reliance is also placed on **State of Rajasthan Vs. Bal Chand 1977 (4) SCC Page 308, Satender Kumar Antil Vs. Central Bureau of Investigation & Anr SC (Jul 11/2022), Manish Sisodia Vs. Directorate of Enforcement, 2014, Sanjay Chandra Vs C.B.I, Jalaluddin Khan Vs. Union of India, and Sheikh Javed Iqbal @ Ashfaq Ansari Criminal Appeal No: 2790 of 2024.**

9. GROUNDS OF BAIL APPLICATION - ACCUSED NOS. 2 TO 8

- a. That the applicants are respectable citizens and serving police officials, having clean service records with no criminal antecedents whatsoever prior to registration of the present FIR.
- b. That the applicants were arrested by the Respondent on 20.08.2025 in connection with FIR No. RC048202550008 dated 26.07.2025, registered under Sections 120-B r/w 307 (now dropped), 323, 325, 326 (now dropped), 331 and 343 IPC and substantive offences thereof.
- c. That the applicants are innocent and have been falsely implicated in the present case without any cogent material connecting them to the alleged offences.
- d. That the applicants had sought bail from this Court, which was rejected vide order dated 04.10.2025.
- e. That a crucial and material change of circumstance has since occurred. The investigating agency filed its chargesheet on 22.10.2025. Significantly, in this chargesheet, the most serious charges under Sections 307 (Attempt to Murder) and 326 (Voluntarily causing grievous hurt by dangerous weapons or means) of the IPC have been DROPPED against the applicants. This development completely undercuts the core of the complainant's allegation that the applicants caused him life-threatening

grievous hurt. The legal impediment of Section 307, which was the cornerstone of the previous bail rejection, no longer exists. The case now rests on less severe charges, for which this Court has jurisdiction to grant bail.

- f. That the chargesheet has been filed by the investigating agency before this Court on 22.10.2025 and the next date of hearing is fixed for 04.11.2025.*
- g. That it is pertinent that the alleged victim has not attributed any specific role to the applicants in causing the alleged injuries, nor is there any medical or ocular evidence which directly connects the applicants with the alleged assault. The omnibus allegations made are vague, unspecific and without supporting material, thereby rendering the implication of the applicants doubtful and mala fide.*
- h. That the applicants have fully cooperated with the investigation and since investigation is over, there is no need for their further incarceration.*
- i. That even the chargesheet itself admits of there being no sanction from the competent authority, which is a prerequisite for taking cognizance of offences alleged against the applicants in terms of Section 218 BNSS. Thus, absence of sanction per se is a strong ground for grant of bail.*
- j. That the applicants have deep roots in society, permanent residences and families to look after, and there exists no possibility of their fleeing from justice.*
- k. That the applicants undertake not to tamper with evidence or influence any witness and shall abide by any condition imposed by this Court.*
- l. That further incarceration of the applicants is unwarranted as they are innocent and have not committed the alleged offences. Continued incarceration serves no fruitful purpose except to subject them to undue hardship and humiliation.*
- m. That the settled legal position as laid down by the Hon'ble Supreme Court in **Sanjay Chandra v. CBI (2012) 1 SCC 40** is that bail is the rule and jail is the exception, particularly where guilt is yet to be established and the offence does not carry death or life sentence. Notably, the only non-bailable offence alleged against the applicants is the offence under Section 331 IPC and the maximum punishment prescribed therefor is only 10 years.*
- n. That in the circumstances, denial of bail would amount to pre-trial punishment, which is impermissible under Article 21 of the Constitution of India.*
- o. That the applicants are respectable members of society and police officials with good standing and there exists no flight risk in case they are released on bail.*
- p. That the CCTV footage of the entire incident along with witness depositions as well as other material placed on record would clearly reveal that the applicants have been*

falsely implicated and no injury over the alleged victim has been inflicted by them.

- q. That the allegations levelled against the applicants are primarily a result of the complainant/alleged victim trying to save his skin over his involvement in multiple cases of narcotic smuggling.*
- r. That no substantial material or evidence has been recovered by the respondents to point towards the guilt of the applicants and they have been scapegoated and unjustifiably arrested in the instant case.*
- s. That many of the applicants are medically ill and require constant medical attention from their families. The family members are not being permitted by the respondent to provide medicines to the applicants, which could result in further medical complications.*
- t. That the applicants are ready to abide by any conditions put forth by the Court while granting bail and would in no manner endanger witnesses or tamper with evidence.*
- u. That in order to put forth a reasonable defense, the applicants need to be set at liberty so that they can fairly cooperate with the investigating agency in providing material which supports their innocence.*

10. OBJECTIONS FILED BY PROSECUTION - COMMON TO ALL APPLICANTS

- a. That based on evidence collected during investigation, charge sheet u/s 120-B IPC r/w 323, 325, 330, 331, 343 of IPC and substantive offences thereof has been filed before this Court on 22.10.2025 against all accused applicants.*
- b. That the contentions that applicants are innocent and falsely implicated are wrong and denied. Based on evidence collected, chargesheet has been filed establishing their involvement.*
- c. That accused persons in conspiracy with each other were personally involved in illegal confinement and custodial torture of the victim at JIC Kupwara for extorting confession resulting in hurt/grievous hurt on the person of victim.*
- d. That the claim that applicants fully cooperated with investigation is denied.*
- e. That regarding absence of sanction, while the chargesheet was filed awaiting sanction from competent authority which has been requested, the pending sanction of*

prosecution against accused persons cannot be a ground for grant of bail.

- f. That the undertaking that applicants will not tamper with evidence or influence witnesses cannot be believed at face value. Being police officers, they are in a position and capable of tampering with evidence and threatening witnesses.*
- g. That the contentions that no case is made out are wrong and denied. Based on evidence collected during investigation, sufficient material exists to proceed against the applicants.*
- h. That if the applicants/accused are enlarged on bail at this stage, it would send a wrong signal to the society at large.*
- i. That in the CCTV footage of JIC Kupwara dated 26.02.2023, the victim is seen limping while walking in JIC Kupwara compound with restricted movement which corroborates the allegations of wrongful confinement and custodial torture.*
- j. That there are sufficient oral, documentary, electronic and circumstantial evidence which established that the applicants/accused were involved in custodial torture of victim during his wrongful confinement at JIC Kupwara during the relevant period.*
- k. That regarding medical illness claims, no document substantiating such claims has been enclosed. The accused are under Judicial Custody and respondent has no say in providing medical aid. The applicants are misleading the Court.*
- l. That the allegations levelled against the accused applicants are serious in nature affecting the human body. During investigation, evidence gathered established their role and complicity based on which they were arrested on 20.08.2025.*

m. Specific Objections for Accused No. 1 (Aijaz Ahmad):

- i. That the accused applicant Aijaz Ahmad is an FIR named accused, involved in custodial torture of victim during wrongful confinement at JIC Kupwara during the relevant period.*
- ii. That the accused applicant entered in criminal conspiracy with co-accused persons and in*

pursuance thereof was involved in illegal confinement and custodial torture of victim at JIC Kupwara for extorting confession resulting in hurt/grievous hurt.

- iii. That in CCTV footage dated 26.02.2023, the victim is seen limping. Further, the victim was produced before accused applicant Aijaz Ahmad on 25.02.2023 in his office at JIC Kupwara and he had full knowledge that victim was confined at JIC Kupwara illegally during the relevant period.*
- iv. That during investigation, involvement of applicant Aijaz Ahmad has surfaced in commission of crime and consequently chargesheet has been filed against him and other co-accused persons.*
- v. That personal problems of the applicant cannot be ground for granting bail to an applicant involved in heinous crime being a responsible police officer.*

11. GROUNDS FOR OPPOSITION TO BAIL:

12. The prosecution vehemently opposes bail based on following reasons:

- a. **Gravity and Seriousness of the Offence:** The offence is serious, involving custodial torture and abuse of official power. Granting bail to accused police officials at this stage may send a wrong message to society at large.*
- b. **Potential to Influence Witnesses:** The accused petitioners, being police officials, there is reasonable apprehension of influencing witnesses.*
- c. **Breach of Public Trust:** The accused being law enforcement officers were expected to hold higher standard of integrity and devotion to duty. However, misuse of official position in committing the offence aggravates the gravity and undermines public confidence in the police system.*
- d. **Threat to Victim or Witness Safety:** The victim and witnesses may feel threatened or unsafe if the accused police officials/petitioners are released on bail at this stage.*

- e. ***Precedents and Judicial Principles:*** Courts have repeatedly held that public servants who misuse authority should not be granted bail lightly and bail should be denied where there is genuine risk of interference with due process.
13. Heard both sides at length. The following legal points have been highlighted and agitated by the Ld. Counsel for the applicants/accused persons:
- a. ***That though the challan is incomplete for want of sanction, the accused are entitled to default bail.***
- b. ***That the further custody of the applicants/accused persons is not warranted by the facts and circumstances of the case because, without a valid sanction, the trial cannot proceed, and therefore the accused are entitled to bail.***
- c. ***That there is a substantial change in circumstances from the date when the first bail application was rejected by the learned CJM Court.***
14. I have perused the entire material available on record, and the aforementioned legal points are taken up for consideration in view of the material so placed.
15. **From a bare perusal of the record, it is revealed that the first point of contention, that the accused are entitled to default bail, does not squarely apply to the facts and circumstances of the present case. Once the challan is presented before the competent court within the statutory period, the question of default bail does not arise at all.**
16. **Though the challan has now been committed to this Court and arguments on charge are yet to be advanced, it is only after such arguments are heard that this Court can frame an opinion as to whether charges are made out against the**

accused persons. At this premature stage, whether the prosecution has carved out a prima facie case or not cannot be conclusively determined. Until a finding is arrived at on the issue of charge, the accused can be remanded to judicial custody, pending a comprehensive hearing of both sides.

17. The expression “change in circumstances” postulates whether any further progress has occurred in the investigation, inquiry, or trial subsequent to the rejection of the earlier bail application. In the present case, the matter has only recently been committed to this Court, and this Court has yet to afford both sides the opportunity to advance arguments on the legal impact, if any, of the absence of sanction at this stage. This crucial issue shall be taken up for consideration at the stage of framing of charge/discharge, and its legal implications shall be decided thereafter. Meaning thereby that the applicants, both at the time of rejection of their earlier bail application and today stand on the same pedestal, and therefore no substantial change in circumstances can be said to have occurred.

18. I am of the considered view that it is premature to delve into the merits or demerits of the case at this stage. These issues can appropriately be examined at the time of framing of charge or discharge.

19. In view of the discussions made hereinabove, this Court is of the considered view that the applicants have not been able to make out any case for grant of bail at this stage. The plea of default bail is untenable in law in view of the presentation of the challan within the statutory period, and no substantial change in circumstances has occurred subsequent to the rejection of their earlier bail

applications. The legal effect of absence of sanction, if any shall be examined at the appropriate stage of consideration of charge/discharge and not at this interim stage.

20. Accordingly, the present bail applications, being devoid of merit, are dismissed.

21. Both applications are accordingly disposed off, be tagged with the main file.

Announced
08.12.2025
S.A. Qalandar

Principal Sessions Judge
Kupwara