

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

...

CRM(M) No.469/2026
CrlM No. (1075/2026)

YAVNIKA ALIAS ANSHU

... Petitioner(s)

Through: -Mr.Hazim Qureshi, Advocate

Vs.

UNION TERRITORY OF J AND K AND OTHERS

...Respondent(s)

Through: -None

CORAM:

HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER

13.07.2026

1) The petitioner through the medium of present petition has challenged FIR No.1/2025 for offences under sections 318(4), 319(2) and 61(2) of BNS, registered with Police Station Nishat, Srinagar. The impugned FIR, it seems, has been registered on the basis of the communication received from Police Station Cyber Crime District Siliguri, West Bengal, where on the basis of report of the Complainant-respondent No.3, zero FIR was filed which was later on transferred to Police Station Nishat and the same led to registration of the impugned FIR.

2) As per the allegations made in the report submitted by the complainant, who happens to be the father of the victim, namely Ritwik Gupta, the victim was travelling in J&K from 24.08.2024 to 02.09.2024. It is alleged that the victim was cheated by accused

persons whose names have been mentioned in the complaint lodged by the complainant. As many as 12 persons have been named in the aforesaid complaint, which includes the petitioner herein. It has been alleged that the accused persons have cheated the victim by swapping of his SIM card on 26th August 2024, and fraudulently transferring an amount of Rs. 8,73,661.50 from his bank accounts from 27.08.2024 to 02.09.2024 at Upper Brein Srinagar.

3) According to the complainant, the victim checked in a dormitory of Hostel known as “WHOSTELS” Upper Brein Nishat Srinagar on 24.08.2024, where his original SIM Card bearing Contact No.8617808574 was swapped by an unknown Jio prepaid SIM Card bearing contact No.9015296329. This, according to the complainant, was done by one Rohit Kumar and the petitioner herein with the help of other accused. It is alleged in the complaint that accused Rohit Kumar and the petitioner made friendship with the victim, and on 26.08.2024, when the victim went to the bathroom of the “WHOSTELS” he kept his mobile cell phone for charging in his room, but when he came out, he saw the petitioner and accused Rohit Kumar handling his mobile phone. The above named two accused tendered an explanation to the victim that his mobile was not properly charging, so they were trying to fix it. It is further alleged that the petitioner and her associate managed to

take out information from the victim that he is going to Pir Panjal range for trekking for a week, and that the victim left Srinagar on 27.08. 2024. He could not access his mobile cell phone during the trekking as there was no network. But when he returned to the “WHOSTELS” on 02.09.2024 and checked his mobile number, he found that multiple fraudulent transactions had taken place through net banking from his accounts maintained with HDFC Bank, State Bank of India, HDFC debit card and ICICI Bank credit card. The victim further found that the petitioner and her associate had applied for a credit card from Axix Bank using SIM card of the victim. It is also alleged that the aforementioned two accused and their associates applied for many debit cards and credit cards of different banks and also applied for loans from different banks using the SIM card as well as identity of the victim. It is further alleged that when the victim checked SIM card compartment of his mobile phone, he found an unknown prepared SIM card was inserted therein which had been issued in the name of Ajay Suwalka of Himachal Pradesh, bearing contact No.9015296329. At this stage, the victim understood that his original SIM card bearing contact No.8617808574 had been stolen by the above-named two accused and swapped with an unknown SIM card pertaining to Ajay Suwalka of Himachal Pradesh by inserting his SIM card bearing contact No.9015296329 with the

help of Manager of “WHOSTELS” namely accused Wasim Raja at the time when the victim had gone to washroom on 26.09.2024. It is further alleged that when the victim called Jio service provider, they also confirmed that his registered SIM is not in his mobile but the same has been replaced by another Jio SIM. It is alleged that the petitioner and her associate, with the help of the Manager of the “WHOSTELS”, used original SIM card of the victim to generate and verify OTP and made fraudulent transactions.

4) The petitioner has challenged the impugned FIR on the ground that the same is based upon concocted story. It has been contended that allegations made in the impugned FIR are contradictory which falsifies the story projected in the FIR. It has been further contended that the contents of the impugned FIR do not disclose commission of offences in respect of which the FIR has been registered.

5) I have heard learned counsel for petitioner and perused the record of the case.

6) As is clear from the contents of the impugned FIR, the complainant has alleged that his son while he was in Srinagar in connection with trekking, left behind his mobile cell phone in his room, which was fiddled by the petitioner and her associate, whereafter they swapped the SIM card of the victim with another SIM card and misused the SIM card of the victim in siphoning off

a huge amount of money in excess of Rs.8 lacs by virtue of various e-transactions.

7) The aforesaid allegations clearly disclose commission of cognizable offences under various provisions of BNS and under the provisions of IT Act. Whether the allegations made in the impugned FIR are correct or false, is a matter of investigation. This Court while exercising its jurisdiction under Section 528 BNSS cannot hold a mini trial and determine the veracity of the allegations made in the impugned FIR. Once it is clear that the contents of the impugned FIR disclose commission of cognizable offences, the Investigating Agency has a statutory duty to undertake investigation of the case. The Court cannot restrain the investigating agency from discharging its statutory duty.

8) In view of the above, I do not find any merit in this petition. The same is dismissed.

(SANJAY DHAR)
JUDGE

SRINAGAR
13.07.2026
Sarveeda Nissar

Whether the order is speaking: **Yes/No**
Whether the order is reportable: **Yes/No**