

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

Crl R No. 60/2024

Reserved on: 30.06.2026
Pronounced on : 02.07.2026
Uploaded on : 02.07.2026

Whether the operative part or full
judgment is pronounced: Full

Rohit Kumar

....Petitioners

Through:- None.

V/S

UT of J&K

.....Respondents

Through:- Mr. Pawan Dev Singh, Dy. AG.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE
JUDGMENT

01. Petitioner, through the medium of this Revision Petition, has challenged order dated 05.11.2024 passed by the court of learned Additional Sessions Judge, Kathua in an application titled **Rohit Kumar Vs. Superintendent Jail, Ambphalla, Jammu** (file No. 226/2024) whereby the application for shifting the custody of the petitioner-Rohit Kumar, as an accused, in a case titled **UT of J&K Vs. Rohit Kumar** wherein he has been facing the charge of attempt to murder and the possession of illegal arms, in a case arising out of FIR No. 104/2024 registered at Police Station, Kathua has been rejected. The trial court rejected the application

vide impugned order on the ground that none of the family members including the mother of the petitioner are residents of District Kathua instead they have been putting up at Mandi Govindgarh, Punjab and that the applicant/accused was being produced before the court through virtual mode, causing no inconvenience to him so as to shift him from District Jail, Jammu to District Jail, Kathua.

02. There is no representation on behalf of the petitioner, so was the case on the last several dates, as such, this revision petition is taken up for disposal on merits.

03. The petitioner, through his mother, had moved an application before the trial court at Kathua to order the shifting of the petitioner Rohit Kumar, who has been lodged as an accused in District Jail, Jammu in a case arising out of FIR No. 104/2024 registered at Police Station, Kathua with regard to facing the charge of attempt to murder on one PSI Deepak Sharma, who had been made the subject of the murderous attack when he had gone to arrest the accused, in a case FIR No. 93/2023 with regard to a murder case registered at Police Station, Ramgarh.

04. Admittedly, the petitioner was facing trial in a case registered at Police Station, Kathua and was facing the trial also at Kathua in the court of learned Additional Sessions Judge, Kathua. The petitioner was stated to be originally a resident of Kotli Raiyan, R.S. Pura, Jammu, however, his

family was stated to have shifted and are presently residing at Mandi Govindgarh, Punjab.

05. The petitioner, through his mother-Rajni Devi, had prayed that the custody of the petitioner, as an accused and undertrial before the trial court, be shifted from District Jail, Jammu to District Jail, Kathua for the convenience of the family and the trial of the accused.

06. The trial court, in the order impugned, has observed that it is the trial court only that can order the change of the custody of the undertrial from one jail to another as has been held in the case of **Nayeem Rasool Vs. UT of J&K & Ors.** [WP(c) No. 1991/2022 decided on 27.04.2023 by this court]. The application was, however, rejected on the ground that neither the accused nor his family were residents of district Kathua so as to make a ground for shifting of the applicant/accused from District Jail, Jammu to District Jail, Kathua.

07. Admittedly, the family of the petitioner was resident of Mandi Govindgarh, Punjab, which is beyond the jurisdiction of even the trial court and the family of the accused/undertrial have to travel all along from Punjab to Jammu to seek an interview with him in the jail. Moreover, accused while facing trial has not only to cause appearance through physical or virtual mode but also to assist his counsel in conducting his trial in a fair and impartial manner.

08. It appears that the trial court has decided the case in a slipshod manner, without considering the matter in its true spirit as the aspect of convenience of the family and the accused facing the trial at Kathua were the paramount factors to be considered by the trial court. Simply, observing that none of them are residents of Kathua does not, in the considered opinion of this court, justify the disposal of the application.

09. For the foregoing reasons, the petition is allowed and the impugned order is set aside with a direction to the trial court to consider the matter afresh. The trial court shall be entitled to look into all the attending factors supervening the filing of the application and till the date of this order after affording an opportunity of being heard to both the sides.

10. Revision petition is accordingly disposed of, as allowed.

(M A CHOWDHARY)
JUDGE

JAMMU
02.07.2026
Naresh/Secy.

Whether the judgment is speaking: **Yes**

Whether the judgment is reportable: **Yes**