

In the Court of Special Judge NIA Cases, Jammu

File No.	Date of Institution	Date of Decision.
381/2026/Bail	07.05.2026	20.08.2026

Insha Jan @ Insha Tariq Vs N I A
D/o Peer Tariq Ahmed Shah
R/o Hakripura, Tehsil Kakapora
District Pulwama,
(Applicant/accused)

RC No. 02-2019//NIA/JMU
U/s 120-B, 121, 121-A, 122, 123, 307 & 302 RPC
U/s 7/25/27 of Arms Act
U/s 16, 17, 18, 18-B, 19, 20, 21, 38 & 39 of U A (P)
Act,
U/s 3, 4, 5, & 6 Explosive Substance Act

In the matter of:- Application for grant of bail in favour of applicant/accused
Insha Jan @ Insha Tariq in case titled "State Vs Masood
Azhar Alvi & Ors"

Present: Adv. Mr. Yogesh Bakshi for the applicant.
Mr. K S Pathania SPP for NIA.
Mr. Chandan Kumar Singh PP NIA
Mr. Ashwani Verma PP NIA

Coram: Prem Sagar.

UID No.JK00151

ORDER

1. This is to dispose off an application filed by applicant/accused through his counsel for grant of bail in favour of applicant/accused Insha Jan @ Insha Tariq by medium of this order.

2. It is stated in the application that the above titled challan was produced before this court on 25.08.2020 in which the applicant has been involved in a false and fictitious case in RC-02/2019/NIA/JMU for the offences U/s 120-B, 121, 121-A, 122, 123, 307 and 302 RPC; U/s 7, 25, 27 of Arms Act; U/s 3, 4, 5, 6 Explosive Substance Act; U/s 16, 17, 18, 18-B, 19, 20, 21, 38 and 39 of UA (P) Act and applicant is languishing in the District Jail Baramulla, Kashmir, for the last more than Six years.
3. This court has framed the charge against the applicant on 10.12.2022 and so far 49 witnesses have been produced by the prosecution which have been recorded by the court since 2023 out of 240 witnesses, it means that approximately 180 witnesses are yet to be recorded as per the speed of producing prosecuting witnesses by the prosecution it will take another fifteen years to conclude the trial and who will compensate her future youth and these costly fifteen years when or if discharged by the Court. All the witness which have been recorded by this court produced by the prosecution in support of the case have not indirectly or directly connected the applicant with commission of offence. There is nothing incriminating material recovered from the applicant at the time of her arrest or after which would fastened her in involvement of the offence mentioned above. The applicant is in incarceration for the last more than six years.
4. The applicant due to long incarceration has developed different ailments and is now suffering with chronic dermatological condition, cavical spendylom, chronic oculogenic headache despite the treatment provided by the jail authorities which is available with them, there is no improvement in health condition of the applicant. The diseases are chronic in nature and require strict follow-up and treatment although it is provided by the jail authorities but not to the satisfaction of the applicant. The applicant needs treatment of super specialized doctors so that her life is saved from such chronic infection, she is always suffering pain in her whole body due to

infection and now the dermatological conditions are leading towards chronic skin curacies which is beyond control if not treated as required to the patient which is not possible in jail. The applicant needs homely atmosphere with sympathized and advancement treatments for her speedy recovery otherwise the diseases will end the life of the applicant.

5. The applicant is innocent person, her acquisition in the case is totally false without any reasonable ground and the case has been prepared by the prosecution to involve the applicant in the said case only on the grounds of disclosure before the investigating officers which has not lead to any recovery and is not admissible against the applicant in the trial. The case of NIA against the applicant has no legal and factual foundation and the nature and character of evidence recorded during the course of time is that it would not make out the case against the applicant, moreover it is submitted that the continuous incarceration of the applicant is unwarranted under the law. It is submitted that mere gravity of the offence cannot be taken the criteria which would infer the court but the court must also consider falsity and frivolity of the prosecution case; the character and nature of evidence recorded in support of the case. The continuous incarceration is violation of fundamental rights and personal liberty of a person/accused granted by the constitution of India, held by Hon'ble Supreme Court in different cases.
6. There is no material on record which could have connected the applicant with the chain of facts constituting the state of offence as such, there is no prima facie material on record which could have established the involvement of applicant in the present case. There is delay in trial which is sheer violation of fundamental rights of speedy trial guaranteed under Article 21 of the Indian Constitution held by Supreme Court of India in various cases, speedy trial is a fundamental right under Article 21 of Indian Constitution as prosecution has produced only 50 witnesses during the last

six years and yet 180 witnesses are to be recorded which is not possible by this court even to record in more than ten years where Hon'ble Supreme Court has directed to conclude the trial within a period of one year so that the innocent people are set at liberty and guilty or punished.

7. The Hon'ble Supreme Court has already stated that even a jail of one year in the commencement of trial is bad enough, however, much worth it would be when the jail is as long as three or five years. Speedy trial in the essence of criminal justice and there can be no doubt that delay in trial by itself constitutes denial of trial.
8. There is no prima facie evidence on record which will involve the accused/applicant in the commission of crime. The prosecution is only banking upon the disclosure statements of the accused persons which has been allegedly shown recorded during the police custody as such same is not admissible in Evidence Act and cannot be translated as a evidence against the present applicant. It is further submitted that the Hon'ble High Court had set it rest that "Any confession statement made by any accused before the police or before an Executive Magistrate or in presence of Executive Magistrate is not admissible unless such confession is not made before the Judicial Magistrate even the so-called disclosures or confessions made by the accused persons during the investigation cannot be translated as evidence unless such disclosures or confession will not lead to discover of fact which is directly attached or connected with the commission of crime.
9. The Hon'ble Supreme Court has also observed that the tendency of getting the entire disclosure or confession statement recorded rather than only that part of statement which leads to discovery of facts. Confession of an accused which is otherwise hit by the principles of evidence act shall not find any place on record which may have direct tendency to influence and prejudice the mind of the court and this practice must be stopped. In the

present case the investigating agency has put on record the so- called confession/ disclosure statements alongwith the file which otherwise would have been a clue to further investigate the case but such confessions recorded in the custody and disclosure if any made by the accused persons during the custody and which will not lead to any discovery of fact, such confession and disclosure will not find any place or weight-age in the charge sheet.

10. The applicant is a woman of substance and has sound family background financially and has deep social and economical relations in valley hence will not jump the bail, if granted. Applicant undertakes to furnish the bail bond to the satisfaction of the court and will fulfill all the conditions whatsoever are imposed by the court. The applicant is ready to furnish the bail bonds and surety bond to the satisfaction of this court. The applicant will not tamper or hamper the prosecution witness if any. It is, therefore, prayed that the applicant be granted bail in the interest of justice.

Objections of NIA

11. CIO NIA Inspector Arun Sharma has filed objections to this bail application and stated that the present bail application filed by the applicant/accused is devoid of merit misconceived both on fact and law and the same is liable to be dismissed by this Court. At the outset NIA denies all the contentions made by the applicant/ accused in the bail application under reply except those admitted unequivocally. The embargo created under section 437 of Code of Criminal Procedure, 1973 is also attracted in the present case. If the applicant/accused enlarged on bail, she may flee from justice and temper/influence the witnesses, which would hamper fair trial of the case.
12. The court after being satisfied that there is prima facie case against accused/applicant, vide order dated 10.12.2022, has framed charges against

the applicant/accused for the commission of offences U/s 120-B, 121, 121A, 122, 123, 201, 302 & 307 RPC, U/s 16, 17, 18, 18-B, 19, 20, 21, 38 & 39 UA(P) Act 1967. The accused has not challenged the order of framing charge. Hence the charges so framed have attained finality. Since with the framing of charges involving offences punishable under chapter IV and VI of the UA(P) Act of 1967 and in view of the limitations of section 43 D(5) of UA(P) Act accused/applicant is not entitled to be released on bail.

13. It is further submitted that accused is a highly motivated terror associate, who is involved in grave and serious offence which she committed and gave effect to it in a well-planned manner reflecting her maturity of mind rather than innocence indicating that her plea of bail is more in the nature of a shield to dodge or dupe the arms of law which cannot be allowed to come to her rescue. There is a specific bar under Section 43-D (5) of unlawful activities prevention act 1967 to grant of bail.
14. Out of 240, 55 prosecution witnesses have been examined so far by the prosecution and for next date of hearing 02 witnesses have already been summoned by the prosecution for giving their evidence. With respect to delay in conducting trial the law is well settled on this point that delay in trial of the case cannot always be considered as ground for granting bail. Moreover, prosecution never caused any delay in early disposal of the case. Mere delay in trial is no ground to grant bail when grave offences are involved. The relevant case laws (GURVINDER SINGH V/S STATE OF PUNJAB & ANOTHER, reported in 2024 Live Law (SC) 100) and (Gulfisha Fatima V/s State (Govt. of NCT Delhi, “Para No. 80 and 81”) can be referred. The applicant has been charged for the offences for which punishment provided is death or life imprisonment.

ROLE OF ACCUSED/APPLICANT

15. Insha Jan along with her father accused Peer Tariq Ahmad Shah (A-6), facilitated safe shelter to the JeM terrorists at their house and provided them with food and other logistics. She and her family was introduced to JeM terrorists by her neighbour viz. Mohd. Abbas Rather (A-8) in May, 2018. Pakistani terrorists Muhammad Umar Farooq (A-15) and Mohd Kamran Ali (A-16) came to their house in June, 2018. Subsequently, the JeM terrorists started coming to her home regularly with arms and ammunition. In January 2019 Muhammad Umar Farooq (A-15), Adil Ahmad Dar (A-14) and Sameer Ahmad Dar came to her house with sophisticated arms and ammunition and stayed for many days. On 28th and 29th January 2019, the video of fidayeen Adil Ahmad Dar (A-14), which went viral after the attack, was recorded in her house. Technical analysis has established that she was at her house at that time. Accused/applicant Insha Jan (A-5) remained in constant touch with Muhammad Umar Farooq (A-15), over telephone and other social media applications.
16. During investigation it is established that there are several WhatsApp calls between the mobile number of accused/applicant and Killed terrorist Muhammad Umar Farooq's (A-15) having Pakistani mobile number. It is established that Mobile number used by applicant has been found saved in the phone book of killed terrorist Muhammad Umar Farooq (A-15). Several voice notes of accused applicant were found in the data extracted from the mobile phone of killed terrorist Mohd. Umar Farooq (A-15). Several photographs of accused/applicant were found saved in the data extracted from the mobile phone of killed terrorist Mohd. Umar Farooq (A-15).

PARA WISE REPLY ON MERIT: -

17. It is respectfully submitted that the law-abiding citizen never takes law in his own hands and the innocence of the applicant/accused is in doubt. Once the charges are framed on the basis of prima facie evidence, here is specific

bar under Section 45 D (5) of UA(P) Act for granting of bail. It is submitted that a total of 54 witnesses have been recorded so far and they have supported the prosecution. The prosecution is not mandated to examine every listed witness. Under [Section 134 of the Indian Evidence Act](#), no specific number of witnesses is required to prove a fact. The prosecution may "drop" redundant or formal witnesses (such as police officers or doctors whose reports are undisputed) once the "chain of evidence" is established. A standard legal reply will examine whether the delay is "unjustified" or caused by the defence's own tactics. If the defence has sought frequent adjournments, changed counsel, or filed multiple interlocutory applications, the court will not count that time against the prosecution. In cases involving serious or "heinous" crimes, a high number of witnesses (240) may be necessary to ensure a [fair trial for the victims](#) and to reach the truth and in the interest of justice.

18. There is sufficient material/evidence on record of this court to establish the involvement of accused/applicant. On the point of non-recovery of crime related items from the accused is not fatal to the prosecution case, if direct, reliable and consistent expert evidence exists to prove guilt beyond a reasonable doubt. Reliance can be placed on Hon'ble Supreme Court, judgment in case titled- ***Goverdhan & Anr. Vs State of Chattisgarh Crime appeal no. 116 of 2011*** and on point of long incarceration Hon'ble Apex Court ***Gulafsha Fatima V/s State (Govt. of NCT of Delhi)*** held :

In prosecutions alleging offences which implicate the sovereignty, integrity, or security of the state, delay does not operate as trump card that automatically displaces statutory restraint. Rather delay serves as a trigger for heightened judicial scrutiny. The outcome of such scrutiny must be determined by the proportional and contextual balancing of legally relevant considerations including

1. *The gravity and statutory character of the offences alleged,*
- 2.

The role attributed to the accused with in the alleged design or conspiracy, 3. The strength of the prima facie case as it emerges at the limited threshold contemplated under the special statute, and 4. The extent to which continued incarceration, viewed cumulatively in the facts of the case, has become demonstrably disproportionate so as to offend the guarantee of personal liberty under article.

19. The applicant admits in the averments in para no. 05 that treatment is being "provided by the jail authorities." Under the **Jail Manual**, the state is obligated to provide "adequate and necessary" medical care, to the applicant. As long as the Superintendent Jail, Baramulla, is providing access to medical officers and prescribed medication, the constitutional obligation toward the inmate's health is being met. Moreover, Cervical spondylosis, headaches, and dermatological conditions are manageable ailments common in the general population and do not constitute "life-threatening" emergencies. The attached medical report explicitly does not state that the applicant's condition is "**critical**" or that the jail "**lacks the resources**" to treat her, there is no ground for bail. If a specialist is needed, the procedure is to escort the inmate to a Government Medical College (GMC), not to release her. The law does not recognize a "homely atmosphere" as a medical necessity for bail. Incarceration, by its very nature, is restrictive. "Sympathy" and "homely comforts" are not legal grounds for the release of an accused facing serious charges. Courts have held (e.g., in **State vs. Jagan Mohan Reddy**) that as long as the state provides standard medical facilities, the plea for "private treatment" or "home care" should be rejected to prevent the misuse of medical grounds to evade trial. Moreover, Hon'ble Delhi High Court in case **Sameer Mahendru Vs Directorate of Enforcement** held that "when prisoner getting adequate medical attention and that the prison authorities have

allowed him to get the treatment from his doctor on an outpatient basis as and when required, thus there are no grounds to enlarge the applicant on regular bail.

20. It is submitted that the case is at the stage of prosecution evidence and the accused facing charges can't claim innocence at this stage. There are sufficient grounds/evidence available on record to prove the involvement of accused in the instant crime. (Reliance can be placed on Hon'ble Supreme Court, judgment in case title- **Govardhan & Anr. VS State of Chhattisgarh** Crime appeal no. 116 of 2011 as mentioned at para no. 5). Hon'ble Supreme Court has clarified that there is no rigid time limit (like one, three, or five years) that automatically violates the right to a speedy trial. The "Right to a Speedy Trial" is a relative term. What is considered "delay" depends entirely on the complexity of the case, the number of accused, and the volume of evidence. In cases of serious or heinous offences, the court must balance the individual's liberty against the interests of society and the victim's right to a fair and complete trial.
21. There is ample evidence on record of this court against accused/applicant to prove the involvement of this accused in this case. When the applicant claims her "sound family background" and "deep social relations" ensure she will not abscond; these very factors increase the risk of witness intimidation. A "woman of substance" with deep social and economic ties often possesses the influence required to sway, pressure, or win over prosecution witnesses. The more influential an individual is, the greater the perceived threat to a fair and untampered trial. Courts often consider the socio-political standing of the accused. If the witnesses are socially or economically subordinate to the applicant, their "deep relations" may be viewed as a tool for coercion rather than a guarantee of compliance. Financial soundness and family status are not substitutes for the legal requirements of bail in heinous or serious offences. If the prima facie

evidence is strong, the accused's high social standing may even be seen as an aggravating factor that allowed the alleged offence to occur or be concealed. In various rulings, the Supreme Court has noted that "liberty is not a license" and that an individual's elite background does not grant them a higher right to bail than a common person, especially when the crime impacts society at large. Moreover a "sound financial background" can provide the resources necessary to flee the jurisdiction or hide from the law.

22. Given the stage of the risk of the accused reaching out to witnesses—directly or through her "deep social relations"—remains a live threat that a simple bond cannot fully prevent. At last, a prayer is made to dismiss the present bail application of accused Insha Jan (A-5).
23. Heard. L/C for applicant argued that due to long incarceration of accused she has developed different ailments and is now suffering with chronic dermatological condition, **cavical spendylom, chronic oculogenic headache** despite the treatment provided by the jail authorities which is available with them, there is no improvement in health condition of the applicant. The diseases are chronic in nature and require strict follow-up and treatment although it is provided by the jail authorities but not to the satisfaction of the applicant. The applicant needs treatment of super specialized doctors so that her life is saved from such chronic infection, she is always suffering pain in her whole body due to infection and now the dermatological conditions are leading towards chronic skin curacies which is beyond control if not treated as required to the patient which is not possible in jail. The applicant needs homely atmosphere with sympathized and advancement treatments for her speedy recovery otherwise the diseases will end the life of the applicant. Ld counsel prayed that in view of condition of applicant/accused by applying humanitarian approach, applicant/accused be released on bail.

24. Per contra learned SPP who reiterated his arguments in consonance with the objections filed to the application and further argued that bail on medical ground is to be granted only in the exceptional circumstances where the medical condition is so serious that it cannot be adequately treated in custody and the requisite facilities are unavailable in jail. The applicant/accused has not brought on record any material to that effect that she is not being treated by the doctor in jail for her medical conditions. The extra care as requested by the learned counsel for applicant/accused in view of his health condition is not a separate or independent ground that may override the medical ground. Ld SPP relied upon by citing judgment passed by our own Hon'ble High Court in case titled **Mian Abdul Qayoom Vs UT of J&K and Ors** CrI(A(D) No.50/2025 announced on 16.12.2025.
25. Thus keeping in view the present status of the health of the accused and the disease of applicant/accused is not a life threatening condition warranting urgent relief, the submissions put forth by learned counsel for applicant/accused loses significance and are not considered.
26. In the present case accused has been charged for serious offences under UAPA which falls in chapter IV and VI of UA P Act and has given much stress that there is delay in trial and as stand already submitted that it is not good ground particularly in militancy related cases. There is sufficient evidence to presume that prima facie accusation against the applicant accused is true, so in view of the provisions laid down under Section 43D (5) UA P Act applicant accused is not entitled to be released on bail.
27. In the present case delay in trial is not attributable to prosecution, moreover, time and again it has been held by Hon'ble apex court and different Hon'ble High Courts that delay in trial cannot be considered as good ground for granting bail by trial court. Such a plea can only be raised

before constitutional court and not before the trial court. So this ground for bail as urged may also be rejected.

- 28.** As stand already submitted that if accused be released on bail at this stage there is every possibility that he will flee from the course of justice by absconding himself and will again join hand with militants organizations which are active anywhere in the country. In the present case applicant/accused has been charged under conspiracy for terrorists attack, so taking into consideration the national interest, safety of common people, the bail of applicant accused may kindly be dismissed.
- 29.** Considered the arguments of both sides. The law in regard to grant or refusal of bail is very well settled. The court while granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken particularly where the accused is charged of having committed serious offences punishable by imprisonment of life or death as para material with Section 480 Bhartiya Nagrik Suraksha Sanhita(BNSS).
- 30.** For the purpose of granting the bail, the Legislature has used words "reasonable grounds for believing" instead of "the evidence", which clearly envisage that the Court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused person and that the prosecution is able to produce prima facie evidence in support of the charge-sheet. It is, however, not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt. Of course, the reasons must be recorded, but without discussion of merits and demerits of the application.
- 31.** A Prima-Facie case is a cause of action or defence that is sufficiently established by a party's evidence to justify a verdict in his or her favour, provided such evidence is not rebutted by the other party. When the word

“prima-facie” is coupled with the word “true”, it implies that the court has to undertake an exercise of crosschecking the truthfulness of the allegations made in the complaint, on the basis of the materials on record. If the court finds, on such analysis, that the accusations are inherently improbable or wholly unbelievable, it may be difficult to say that a case, which is “Prima-Facie true”, has been made out. In doing this exercise, the Court has no liberty to come to a conclusion, which may virtually amount to an acquittal of the accused. Mere formation of opinion by the court, on the basis of material placed before it, is sufficient. In the present case, the applicant is facing trial for alleged commission of offences as being part of a criminal conspiracy to commit serious offenses like in present case which is punishable with death or imprisonment.

32. Trial is already under way and the witnesses are being examined on the date fixed barring on few occasions either due to some reasonable cause or for want of L/Cs, the witness present could not be recorded . Material available on record indicates the involvement of the applicant in furtherance of conspiracy for unlawful activities which needs to be corroborated from other relevant witnesses yet to be examined and in such a scenario if the applicant is released on bail there is every likelihood that he will influence the key witnesses of the case which might hamper the process of justice. Arguments that delay will be caused in trial pertaining to offences as one involved in the instant case is not tenable in view of catena of Judgments and a ground to grant bail. If this yardstick is adopted, by and large no person accused of committing the offence under the special enactment could be detained in prison after expiry of certain specified period, ignoring the prima facie materials that are relied on by the prosecution.
33. Therefore, summing up all and whatever is discussed herein above by keeping in view the nature and gravity of the offences, the larger interest of

the State/UT the bail application of applicant at this stage is not considered and is rejected. Before parting it is made clear that the observations made here in above are only for the purpose of deciding this application and has no bearing on merit of the main case. Copy of the order is given to accused/applicant free of cost through L/C. Copy of this order is also sent to Superintendent, District Jail, Baramulla for providing all type of medical care to the accused Insha Jan @ Insha Tariq regarding her health issues and file compliance report fortnightly in the court.

34. Application is disposed off and after due compilation be made part of the main file.

Announced

20.08.2026

(Special Judge)
Under NIA Act, Jammu