

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT SRINAGAR**

**Bail App No. 121/2024  
CrIM No. 1440/2024**

**Zahoora Akhter, Age: 45 Years**  
D/O Mohammad Abdullah Wagay  
R/O Khandiphari Harnag,  
District Anantnag.

**... Petitioner(s)**

**Through: -**

Ms Aasifa Padroo, Advocate with  
Ms Tabinda Yousuf, Advocate.

**V/s**

- 1. Union Territory of J&K,**  
Through Police Station Qaimoh.
- 2. Sameer Ahmad Padder**  
S/O Manzoor Ahmad Padder  
R/O Khandiphari Harnag,  
District Anantnag.

**... Respondent(s)**

**Through: -**

Ms Nadiya Abdullah, Assisting Counsel vice  
Mr Faheem Nisar Shah, Government Advocate for R-1; and  
Mr M. A. Peerzada, Advocate for R-2.

**CORAM:**

**HON'BLE MR JUSTICE M. A. CHOWDHARY, JUDGE.**

**(ORDER)**

**02.09.2026**

01. The Petitioner, through the medium of this Petition, seeks cancellation of bail granted in favour of Respondent No.2 by this Court vide Order dated 2<sup>nd</sup> of August, 2024 in Bail App No. 132/2023 titled '**Sameer Ahmad Padder v. UT of J&K through Police Station Qaimoh**', in connection with FIR No. 25/2023 for the commission of an offence punishable under Section 376 of the Indian Penal Code (IPC).

02. The Petitioner has asserted that the Respondent No.2 was involved in the commission of a serious offence of rape against the person of the Petitioner and was granted bail in the case by this Court, though he was involved in a serious case; that the Respondent No.2 had violated the

conditions of the bail as he has been threatening the Petitioner, who, as *prosecutrix*, had deposed against him in the Trial Court and, being a neighbour, she is being subjected to continuous harassment by the Respondent No.2; that the Petitioner had moved an application bearing No. 978/M for rejection of bail granted in favour of the accused (Respondent No.2 herein) to the Trial Court, which came to be rejected on 24<sup>th</sup> of September, 2024 by the Trial Court, for the reason that since the bail has been granted by the High Court, therefore, the Trial Court cannot consider the plea of cancellation of the bail.

03. On notice having been issued, the Respondent No.2 has filed Objections to this Petition, wherein he has rebutted the averments made by the Petitioner.

04. Learned Counsel appearing for the Petitioner has argued that the Petitioner, on having been threatened and harassed by the Respondent, so much so to her life, approached the Trial Court for cancellation of the bail, which fact had also been supported by the Prosecution as the learned APP in his Objections and the submissions before the Trial Court had acknowledged that the Respondent No.2 as an accused was indulging in illegal activities which amounted to tampering with the Prosecution evidence, however, the Trial Court had shown its inability to consider the rejection of bail, granted by the High Court.

05. On the other hand, the learned Counsel appearing on behalf of the Respondent No.2, while reiterating the assertions made in the Objections, submits that the *prosecutrix* (Petitioner herein) and the other material witnesses have already been examined by the Prosecution before the Trial Court and that there is no chance of tampering with the Prosecution evidence at this stage. It is further argued that in case the Petitioner is threatened or harassed in any manner by the Respondent No.2, she can bring appropriate legal criminal action against him before the concerned police authorities, but, there is no ground to seek cancellation of bail granted in favour of the Respondent No.2 by this Court.

06. Heard and considered.

07. It is trite in law that the bail is a concession to an accused during trial and is subject to certain conditions. The accused, while on bail, has to maintain a conduct whereby the Prosecution witnesses are not threatened and Prosecution evidence is not tampered, so as to ensure fair trial in the case. However, it would be better if this aspect of tampering with the Prosecution evidence, though the learned Trial Court has recorded in its Order dated 24<sup>th</sup> of September, 2024 that the Respondent No.2 had tried to tamper with the Prosecution evidence, is considered by the Court below, regardless of the fact that the bail was granted by this Court earlier. The Trial Court is free to take a view on the said aspect of the matter, on appreciation of contravention of any of the conditions imposed for grant of bail and also having regard to the fact that the *prosecutrix* and other witnesses are not threatened by the Respondent No.2, as an accused.

08. For the foregoing reasons, it is thought prudent as well as in the interests of justice that the matter is relegated to the Trial Court. Accordingly, the Petitioner herein shall be at liberty to move the Trial Court with an application for cancellation of bail granted in favour of Respondent No.2 and the Trial Court shall be at liberty to consider the matter on its own merits, after seeking Objections from the other side and hearing both the parties, regardless of the fact that the bail was granted by this Court.

09. Registry to forward a copy of this Order to the Trial Court, for information and compliance.

10. Bail App is, thus, **disposed** of on the above terms, along with the connected CrIM.

(M. A. CHOWDHARY)  
JUDGE

SRINAGAR  
September 2<sup>nd</sup>, 2026  
"TAHIR"