HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Crl A(D) No.14/2025

Reserved on: 30.10.2026
Pronounced on: 13.11.2026
Uploaded on: 13.11.2026
Operative part or full judgment - Full

Mohd Khalid (36 years)
S/O Abdul Aziz
R/O Village Kathian,
Tehsil Pouni
District Reasi

...Appellant(s)

Through: Mr. I H Bhat, Adv.

Vs.

UT of Jammu & Kashmir
through SHO P/S Katra,
District Reasi

...Respondent(s)

Through: Mrs. Monika Kohli, Sr. AAG with
Ms. Sagira Jaffar, Adv.

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

JUDGMENT

PER M A CHOWDHARY-J

1. This Appeal has been filed by the appellant-Mohd Khalid against the order dated **20.02.2025,** whereby his application for grant of bail in the case arising out of FIR No. 98/2019, registered at Police Station Katra, on 18.10.2019 for the commission of offences punishable U/Ss 121-A, 121 IPC and 15, 17, 18, 18-A,

39 of UAP Act, came to be rejected by the Special Court under TADA/PODA/UAPA Cases (3rd Additional Sessions Judge), Jammu for short 'the Trial Court'.

2. The impugned order has been assailed on the ground that the appellant was a surrendered militant and keeping in view his past conduct, there was no risk to the sovereignty, security and integrity of India, on his release; that there is no evidence in support of the charges against the appellant before the court below, despite that the bail application of the applicant has been dismissed by the Trial Court.

3. Pursuant to notice, the respondent filed objections asserting therein that the appeal is grossly misconceived, without any legal foundation and merits outright dismissal; that during investigation of the case, appellant-Mohd. Khalid @ Junaid had disclosed that in the year 2004, he had visited to Muzaffarabad (POK) and Elaqa-Gair for arms/ammunition and training; that after returning to J&K, he remained active in Rajouri, Lari top area of Gool and Reasi District and remained involved in the terror related incidents and that finally he had surrendered before SSP Reasi along with one AK-47, 3 magazines, 2 grenades and one wireless set; that he had further confessed he is residing in Yaripora Kulgam and Zainpura Shopian since the year 2012 and that in the year 2016, he was approached by HM

District- Commander Zeenat-ul-islam of Shopian to help them in carrying out activities in and around Reasi; that he came in contact with one Tariq Ahmed Sheikh @ Tariq Moulvi R/O Chitragam Shopian and Abid Maagray @ Sajju Maagray through Zeenat-ul-Islam, as such, he became their over ground worker and as per their directions to carry out Fidayeen attack in Katra town, he helped both of them to travel to Katra town and to reach back to Chitragam Shopian in view of intensified search operation by security forces in Katra town.

4. It is further pleaded that as per the call details, Phone no.9596043764 used by appellant Mohd Khalid was also found in contact with the cell phones used by Tariq Moulvi and one Imitiaz Ali, whose location was also found at Chitragam, which were later switched off at the same place and it was proved that after meeting and planning, they switched off their phones to hide their movement and that there was also record of the e-mails shared by all these persons; that the appellant was apprehended in the case registered vide FIR No.55/2012 of P/S Pouni; that the appellant had, thus, taken active steps to assist Tariq Ahmed Sheikh @ Tariq Molvi and Abid Maagray @ Sajju Maagray, the HM militants to plan a suicidal attack in Katra town, however, their intention to carry out terrorist attack was foiled by the active search, by the security forces on

ground and that after investigation of the case, the charge sheet was laid against all the accused, including the appellant, who was found to have committed offences punishable under Sections 121/121-A RPC and 18/39 of Unlawful Activities (Prevention) Act. Lastly, it was prayed that the appeal be dismissed and impugned order having been passed by the Trial Court, in accordance with law, be upheld.

5. Heard learned counsel for the parties and perused the material available on record.

6. Learned counsel appearing for the appellant would argue that there is no substantial or substantive evidence incriminating against the appellant and that the appellant has been arrested in the case for the only accusation that on his instructions, a SIM card had been obtained for a mobile phone in the name of his wife and which has been used to plan the suicidal attack and arrange the travel of HM militants from Pulwama/Shopian to Katra town; that the appellant was in custody in Jail in connection with another case in those days when he is alleged to have harboured in the alleged crime, of a terrorist organization; that the cell phone alleged to have been used in the commission of the offences was neither in his name nor used but the same was claimed to be used by his wife and his wife was neither arrayed as an accused nor cited as a

prosecution witness in the case. He further argued that the appellant having been in custody could not be stated to have used the phone or harbored the commission of any of the offences of which he has been charged. He further argued that the appellant has only been charged for the commission of offences punishable U/Ss 18 & 39 of UAP Act, and he is punishable U/S 39 of UAP Act, on his conviction, to a sentence not exceeding ten years, or with fine, or with both, and Section 18 of the Act is with regard to committing conspiracy of that offence, and submits that the Trial Court has rejected the bail plea of the appellant not on sound grounds and prayed that the appeal be allowed and the appellant be admitted to bail.

7. Learned Sr. AAG, while appearing for the respondent, *ex adverso*, opposed the plea raised by the appellant in this appeal, submitting that the appellant is charged of the serious offences punishable under the Unlawful Activities (Prevention) Act and during investigation had been found to have actively participated in the commission of planning a proposed suicidal attack in Katra town to spread terror all over India as the pilgrims from the length and breadth of India visit the holy town of Katra; that there is sufficient evidence as delineated in the charge sheet, that the appellant had actively participated as the cell phone under his use had been

used to make calls and the e-mails so as to execute the evil designs of the terrorist organization Hizbul Mujahideen as he was found to have been in contact with their active militants namely Tariq Moulvi and Sajju Maagray. She has finally prayed that appeal be dismissed and the order impugned passed by the Trial Court in accordance with law be upheld.

8. Before we advert to the rival submissions raised in this appeal, briefly stated, facts of the case are, that on **24.04.2019,** information was received from reliable sources at P/S Katra with regard to movement of some unknown persons of different Terrorist Organizations in Katra Town, endangering general public and threatened the unity, integrity and sovereignty of India, that a case was registered at P/S Katra vide FIR No. 98/2019 U/Ss 121/121-A RPC and 15/18/18-B/39 of UAP Act and from intelligence inputs, it was learnt that two militants had entered the jurisdiction of Katra town. By keeping the close vigilance on the activities of one Mushtaq Ahmed R/O Kothian, Tehsil Pouni, District Reasi, he was found to be suspicious, as such he was arrested, who revealed that he had purchased SIM from Kulgam and handed over the same to one Imitiaz Ali R/O Kotian,Tehsil Pouni A/P Bhutan Katra, who was in contact with some terrorists and that with knowledge of same will be used for communication with the terrorists,

on his disclosure, Imitiaz Ali was arrested, who disclosed that he had got SIM from Mushtaq Ahmed on the directions of one Mohd Khalid @ Junaid (appellant herein), a surrendered terrorist with the suggestion that the SIM purchased in the name of Mushtaq Ahmed should be used for communication with terrorists for helping them to carry out attack on pilgrims and aid the terrorists in Terror attack.

9. On verification of the SIM cards and the statements of witnesses, the investigation was concluded against Imitiaz Ali, Mohd Khalid @ Junaid (appellant herein) and Mushtaq Ahmad of the commission of offences punishable under the RPC and UAP Act; that the appellant was accused of the commission of offences punishable under Sections 121/121-A RPC and 18 and 39 of UAP Act; that the offences committed by them were heinous in nature. As per Section 43-D(5) of UAP Act, granting of bail to a person, who is involved in offences which fall under Chapter IV and VI of the Act, is required to be rejected and that the prosecution also apprehended that in case the bail is granted, the accused may jump over the bail and escape from the territorial jurisdiction of this court to cross over the other side of the border.

10. The application for grant of bail was moved by the appellant before the Trial Court, however, the Trial

Court, vide impugned judgment dated 20.05.2025, rejected the bail application.

11. The Trial Court, while rejecting the application observed that the appellant was a surrendered terrorist of proscribed terrorist organization and he had revived his terrorist activities and assisted categorized terrorists of HM organization namely Tariq Moulvi and Sajju Maagray, in committing the terrorist activities in and around the Katra town and that to assist them, the accused had directed the co-accused Imitiaz Ali to purchase the SIM Card bearing No. 6005436288, from co-accused Mushtaq Ahmad for the purpose of communicating with the aforementioned categorized terrorists of HM organization for helping and aiding them to carry out the attack on the pilgrims; that out of 41 cited prosecution witnesses, 18 prosecution witnesses have been examined and they have supported the prosecution case and that appellant being the Pak trained surrendered terrorist and his involvement in the case, his release on bail is a risk to the security, integrity and sovereignty of India, and hence the bail was declined.

12. Sections 18, 39 & 43D(5) of UAP Act being relevant are extracted as under:

18. Punishment for conspiracy, etc.—

Whoever conspires or attempts to commit, or advocates, abets, advises or [incites, directly or knowingly facilitates]

the commission of, a terrorist act or any act preparatory to the commission of a terrorist act, shall be punishable with imprisonment for a term which shall not be less than five years but which may extend to imprisonment for life, and shall also be liable to fine.

39. Offence relating to support given to a terrorist organization.—

(1) A person commits the offence relating to support given to a terrorist organization,—

(a) who, with intention to further the activity of a terrorist organization,—

(i) invites support for the terrorist organization; and

(ii) the support is not or is not restricted to provide money or other property within the meaning of section 40;or

(b) who, with intention to further the activity of a terrorist organization, arranges, manages or assists in arranging or managing a meeting which he knows is—

(i) to support the terrorist organization; or

(ii) to further the activity of the terrorist organization; or

(iii) to bead dressed by a person who associates or professes to be associated with the terrorist organization; or

(c) who, with intention to further the activity of a terrorist organization, addresses a meeting for the purpose of encouraging support for the terrorist organization or to further its activity.

(2) A person, who commits the offence relating to support given to a terrorist organization under sub-section (1) shall be punishable with imprisonment for a term not exceeding ten years, or with fine, or with both.

43-D. Modified application of certain provisions of the Code.—

(5) Notwithstanding anything contained in the Code, no person accused of an offence punishable under Chapters IV and VI of this Act shall, if in custody, be released on bail or on his own bond unless the Public Prosecutor has been given an opportunity of being heard on the application for such release:

Provided that such accused person shall not be released on bail or on his own bond if the Court, on a perusal of the case diary or the report made under section 173 of the Code is of the opinion that there are reasonable grounds for believing that the accusation against such person is prima facie true."

13. The appellant is stated to have been in Jail for the last more than six years in this case, whose custody had also been transferred in this case from another case, which means that the appellant on the day of the alleged commission of the offences was in detention in a jail; that the cell phone, which was alleged to have been used to communicate with the HM militants at his instance was neither in his name nor under his use, the SIM of a cell phone taken by co-accused Imitiaz Ali from another co-accused Mushtaq Ahmad cannot be a substantive proof about the active involvement of the appellant herein, particularly, when he was in custody.

14. The appellant's background of being a Pak-trained militant, who later surrendered before the Police in a Rehabilitation Policy of the Govt., cannot be a ground to deny bail for his alleged role in the commission of aforestated offences in this case. This court refrains to comment further upon the merits of the case, lest it may affect the trial but records its satisfaction, that the appellant in the facts and circumstances of the case is entitled to be admitted to bail.

15. Having regard to the facts and circumstances of the case, alleged role of the appellant, his long incarceration of more than six years, nature of the offences punishable under sections 18 and 39 of UAP Act, gravity and seriousness of the offences, this Court is persuaded to grant bail in favour of the appellant.

16. The appeal is, thus, **allowed**. The impugned order passed by the Trial Court is set-aside. The appellant is ordered to be released on bail subject to the terms and conditions to the satisfaction of the Trial Court. A copy of this order shall be endorsed to the Trial Court for compliance.

17. The appellant shall be produced before the Trial Court within a period of seven days from the date of this order for further orders from the Trial Court

18. The Appeal is, accordingly, ***disposed of as allowed***.

(M A CHOWDHARY) JUDGE

(SANJEEV KUMAR) JUDGE

Jammu
13.11.2026
Raj kumar

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

Naresh Kumar
2026.11.13 17:48
I attest to the accuracy and
integrity of this document