

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Bail App No. 147/2026

Reserved on: 27.08.2026

Pronounced on: 01.09.2026

Uploaded on: 02.09.2026

Whether the operative part or
Full judgment is pronounced: **Full**

Kewal Krishan, Aged 57 years

S/o Sh. Behari Lal R/o Rajouri Tehsil &
District Rajouri presently lodged in District
Jail, Rajouri, Through his wife and next
friend Jyoti Sharma R/o Rajouri Tehsil and
District Rajouri.

....Petitioner(s)

Through: Mr. Sunil Sethi, Sr. Advocate with
Mr. Parimoksh Seth, Advocate
Mr. Amullaya Gupta, Advocate.

vs

1. UT of Jammu and Kashmir,

through In-charge/SHO Police Station,
Rajouri.

2. Neeraj Sharma, S/o Kalu Ram Sharma,
R/o Ward No. 5, Jawahar Nagar, Rajouri,
Jammu & Kashmir

..... Respondent(s)

Through: Mr. Bhanu Jasrotia, GA for R-1
Mr. Aseem K Sawhney, Sr. Advocate with
M/s Nishant Verma, Kashif Malik,
Sarfraz Ahmed & Anil Kumar, Advocates
for Complainant.

CORAM: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE
JUDGMENT

1. The instant bail application has been filed by the applicant seeking regular bail in FIR No. 314 of 2026 dated 12.06.2026, registered at Police Station Rajouri for offences under

Sections 109, 126(2) and 191(2) of the Bharatiya Nyaya Sanhita, 2023 (BNS) and Sections 4/25 of the Arms Act, 1959.

2. It has been vehemently argued by Mr. Sunil Sethi, learned senior counsel for the applicant, that the applicant has been wrongly and falsely implicated in FIR No. 314/2026 dated 12.06.2026 and that a bare perusal of the allegations contained in the FIR would reveal that the same are general, vague and omnibus in nature qua the applicant, relating essentially to a fight between two groups, with no specific overt act attributed to him. It is submitted that the applicant was taken into custody on 15.06.2026 and has, since then, remained incarcerated.
3. Learned senior counsel further submits that the applicant had earlier approached the Court of learned Principal Sessions Judge, Rajouri, seeking regular bail, which application came to be dismissed vide order dated 11.07.2026, primarily on the ground that the injured persons were still undergoing treatment at a hospital in Ludhiana.
4. According to learned senior counsel, both the injured persons, namely, Tushar Sharma and Nikhil Bakshi, have since been discharged from the hospital at Ludhiana and, therefore, the circumstance which weighed with the learned Court below while declining bail, namely, the critical medical condition and continuing hospitalization of the injured persons, no longer survives. It is, accordingly, submitted that

there has been a material change in circumstances warranting reconsideration of the prayer for bail.

5. In addition, it has been submitted that there is no material on record to indicate any existing threat to the life of either of the injured persons, nor is there, at this stage, any likelihood of the case being converted into one involving culpable homicide amounting to murder or otherwise. In the absence of any such apprehension, it is contended that the primary ground on which bail was declined to the applicant by the learned Court below no longer survives and that his continued incarceration is, therefore, neither warranted nor sustainable in law.
6. It has also been submitted that, at the time of the alleged occurrence, i.e., on 12.06.2026 at about 9:20 p.m., the applicant was neither present at nor anywhere near the place of occurrence and was, in fact, present and attending to his regular business at his petrol pump. Learned senior counsel has placed reliance upon the CCTV footage installed at the said petrol pump, which, according to the applicant, captures his continuous presence there during the relevant date and time of the alleged occurrence. It is, therefore, contended that the said footage *prima facie* supports the applicant's assertion regarding his presence at the petrol pump and indicates that he could not have participated in the alleged fight/assault as set up by the prosecution.

7. It has been submitted that no specific overt act is attributed to the applicant and that no recovery has been effected from him. Mr. Sunil Sethi, learned senior counsel for the applicant, has further submitted that the co-accused are absconding and have not been arrested so far, and that their non-arrest cannot, by itself, be attributed to the applicant or constitute a ground to deny him the concession of bail, as pre-trial incarceration cannot be permitted to assume the character of punishment.
8. Learned senior counsel further submits that the law is well settled by the Hon'ble Supreme Court that, while considering an application for bail, the Court is essentially required to examine:
- (i) whether there is a reasonable apprehension of the accused fleeing from justice,
 - (ii) whether there is credible material suggesting that the accused would tamper with the evidence or intimidate the witnesses, and
 - (iii) whether there is a substantial risk of repetition of the offence.
9. It is submitted that these considerations are required to be assessed on the basis of material on record and not on mere presumption or vague apprehension and none of the aforesaid considerations stands satisfied so as to warrant the continued detention of the applicant.
10. It is further submitted that the object of bail is to secure the presence of the accused at the trial and that bail is the rule,

while jail is the exception. It is further submitted that pre-trial detention ought not to be resorted to as a form of punishment.

11. Learned senior counsel for the applicant has undertaken that the applicant shall abide by all such terms and conditions as may be imposed by this Court while admitting him to bail.
12. *Per contra*, objections have been filed by Mr. Bhanu Jasrotia, learned Government Advocate, on behalf of the respondent-State, wherein it has been submitted that the remaining accused persons have absconded and are presently evading arrest. It is further submitted that the investigation in the matter is still in progress and that substantial steps have already been taken by the Investigating Officer.
13. It is further submitted that, on 15.06.2026, one of the accused, namely, Kewal Kumar Sharma, son of Behari Lal, resident of Dassal Jattan, Tehsil and District Rajouri, was arrested in the instant case and police remand was obtained. He is presently in judicial custody and lodged in District Jail, Dhangri, Rajouri. The remaining accused persons, however, have absconded after the commission of the offence and, despite efforts made by the Investigating Agency to trace and apprehend them, their whereabouts could not, so far, be ascertained.
14. The respondent-State has further submitted that, as on date, two accused persons, namely, (i) Kewal Kumar Sharma, son of Behari Lal, resident of Dassal Jattan, Tehsil and District

Rajouri, and (ii) Ujjwal Tara, son of Vijay Kumar, resident of Dassal, Rajouri, stand arrested and are presently in judicial custody, whereas the arrest of the remaining accused persons is still pending. It is also submitted that recovery of the weapon(s) allegedly used in the commission of the offence is yet to be effected and that such recovery may be possible upon apprehension and arrest of the remaining accused persons, who have absconded after registration of the FIR.

15. The respondent-State has further stated that the arrest of the following accused persons is pending: (i) Ritish Saryal, son of Kewal Kumar Sharma; (ii) Aryan, son of Jatinder Kumar; (iii) Sahil Sharma, son of Som Raj; (iv) Arun Sharma @ Sanju Saryal, son of Krishan Lal, all residents of Dassal Jattan, Tehsil and District Rajouri; and (v) Suraj Sharma @ Happy Tara, son of Som Raj, resident of Dhangri, Tehsil and District Rajouri.
16. It has also been submitted that the statement of another injured person, namely, Nikhil Bakshi, is yet to be recorded as he is stated to be still undergoing medical treatment and his statement could not, so far, be recorded. According to the respondent-State, after recording the statement of the said injured person and obtaining the medical reports concerning the injuries sustained by him, the investigation shall be completed on merits and the charge-sheet shall, thereafter, be presented before the competent Court for judicial determination.

17. The respondent-State has further brought on record the antecedents of accused Kewal Kumar Sharma, son of Behari Lal, resident of Dassal Jattan, Tehsil and District Rajouri, stating that he has previously been involved in the following cases:

- (i) **FIR No. 470/2012, under Sections 341/147/323 of the Ranbir Penal Code, the charge-sheet whereof has been presented before the competent Court and the matter is stated to be pending judicial determination;**
- (ii) **FIR No. 486/2012, under Sections 341/504/506 of the Ranbir Penal Code, the charge-sheet whereof has been presented before the competent Court and the matter is stated to be pending judicial determination; and**
- (iii) **FIR No. 35/2024, under Sections 353/332/504/506/34 of the Indian Penal Code, registered at Police Station Rajouri, which is stated to be still under investigation.**

18. On the strength of the aforesaid submissions, the respondent-State has opposed the prayer made by the applicant and submitted that the investigation is still underway, the remaining accused persons are absconding, the statement of one of the injured persons is yet to be recorded and certain recoveries are yet to be effected. It has, accordingly, been urged that the prayer for bail be considered having regard to the stage and progress of investigation and the nature and gravity of the allegations involved. Learned

Government Advocate has, accordingly, prayed for dismissal of the instant bail application.

19. In addition, an application has been preferred by Neeraj Sharma, S/o Kalu Ram Sharma, R/o Ward No. 5, Jawahar Nagar, District Rajouri, seeking his impleadment as a party respondent in the instant bail application, being the complainant in the FIR and the father of one of the injured persons and uncle of the other.
20. Learned senior counsel Mr. Aseem Sawhney appearing for the applicant in the impleadment application has submitted that, being directly connected with the victims and the occurrence in question, the applicant has a right to be heard in the present proceedings.
21. In support of the said submission, reliance has been placed upon the judgments of the Hon'ble Supreme Court in **'Jagjeet Singh v. Ashish Mishra', 2022 SCC OnLine SC 453** and **'M/s J.K. International v. State Govt. of NCT of Delhi', (2001) 3 SCC 462**. Having regard to the nature of the allegations, the status of the applicant as the complainant and a close relative of the injured persons, and the legal position relied upon, this Court finds the application for impleadment to be maintainable and, accordingly, allows the same. Neeraj Sharma is, thus, impleaded as respondent No. 2 in the instant bail application.

22. Mr. Aseem Sawhney, learned senior counsel for respondent No. 2/complainant, who happens to be the complainant in the FIR and the father of one of the victims and uncle of the other, submits that, in furtherance of a pre-planned conspiracy, the victims were attacked by the accused persons on 12.06.2026 at about 9:20 p.m. by blocking their path while they were returning from their shop and, upon halting them, the accused persons allegedly launched a brutal attack upon them using hockey sticks, sharp-edged weapons (Toka) and other weapons, leaving them lying on the road. It has further been submitted that, about two months prior to the present occurrence, one of the victims, namely, Nikhil Bakshi, was attacked by 15-16 persons, including some of the co-accused in the present FIR, in respect of which FIR No. 181/2026 was registered at Police Station Rajouri, and that, thereafter, the victims had allegedly been receiving continuous threats and warnings of dire consequences. It has also been submitted that the victims sustained serious injuries in the alleged attack, which, according to learned senior counsel, is also borne out from the fact that the statement of one of the injured persons has not yet been recorded.
23. Learned senior counsel for respondent No. 2/complainant has further submitted that the applicant has not approached this Court with clean hands and has suppressed material facts concerning his criminal antecedents. According to learned senior counsel, the applicant has failed to disclose

the registration of a third FIR bearing No. 35/2024. It is submitted that, when this aspect was brought to the notice of Mr. Sunil Sethi, learned senior counsel appearing for the applicant, he submitted that the applicant was not aware of the registration of the said FIR. Learned senior counsel for respondent No. 2 has, accordingly, contended that the non-disclosure of the said FIR amounts to suppression of a material fact before the Court.

24. Learned senior counsel for respondent No. 2/complainant has, accordingly, opposed the prayer for bail, contending that the applicant is not entitled to the discretionary relief of bail, particularly in view of the alleged suppression of material facts and his criminal antecedents and has deliberately failed to disclose material particulars relating to his previous involvement in criminal cases.
25. It is specifically contended that, in paragraph No. 15 of the bail application, the applicant has stated on oath that only two FIRs stand registered against him. According to respondent No. 2, however, the status report/objections filed in the matter disclose his involvement in three FIRs. It is alleged that the applicant has deliberately failed to disclose FIR No. 35/2024, registered at Police Station Rajouri under Sections 353/332/504/506/34 of the Indian Penal Code, and that such non-disclosure amounts to suppression of a

material fact before the Court with a view to securing the relief of bail.

26. It is submitted that such suppression of material antecedents, particularly while seeking discretionary relief from the Court, is a circumstance which ought to weigh against the applicant while considering his entitlement to bail.
27. Learned senior counsel for respondent No. 2/complainant has further contended that accused Ritish Saryal and Arun Sharma @ Sanju Saryal, who are alleged to be involved in the commission of the offence, are respectively the son and nephew of the applicant and are still absconding. It is, therefore, apprehended that, if the applicant is enlarged on bail at this stage, there is a likelihood of his fleeing from justice or otherwise violating the conditions of bail. It has also been apprehended that the applicant may influence or intimidate the witnesses and otherwise interfere with or tamper with the evidence, particularly when the investigation is still underway and the other accused persons remain at large.
28. It is further contended that the release of the applicant at this stage may prejudice the ongoing investigation and may also give rise to a sense of insecurity amongst the victims and their family members, particularly in view of the apprehension expressed by the complainant regarding the

possibility of the applicant influencing, intimidating or threatening the witnesses.

29. Learned senior counsel for respondent No. 2, in opposing the grant of bail, has submitted that while the right to personal liberty guaranteed under Article 21 of the Constitution is of vital importance, the same cannot be considered in isolation and has to be balanced against the nature and gravity of the accusations, the material collected during investigation, the criminal antecedents of the applicant and the larger societal impact of the alleged offence. It is, accordingly, contended that, having regard to the aforesaid factors, the applicant does not deserve the discretionary relief of bail at this stage.
30. On these grounds, learned counsel for respondent No. 2/complainant has prayed for dismissal of the instant bail application, contending that the applicant is not entitled to the discretionary relief of bail at the present stage of investigation.
31. Having considered the submissions advanced by learned counsel for the parties and having perused the material placed on record, this Court is of the considered view that the prayer for bail cannot be examined in isolation from the nature of the allegations, the stage and progress of investigation, the material collected so far, the antecedents of the applicant and the likelihood of the applicant's release having a bearing upon the investigation or the safety of the

witnesses. The power to grant bail, though discretionary, is required to be exercised judiciously and on the basis of the facts and circumstances obtaining in each case.

32. At the outset, it needs to be noticed that the applicant had earlier approached the learned Principal Sessions Judge, Rajouri, seeking regular bail, which prayer came to be declined vide order dated 11.07.2026. The present application is, therefore, a successive application for bail and the applicant must demonstrate a material change in the circumstances which would justify taking a view different from the one taken by the learned Court below. It is well settled that though a successive bail application is maintainable, the Court considering such an application is required to bear in mind the reasons which weighed with the Court while rejecting the earlier application and to ascertain whether any substantial change in the factual or legal position has occurred. The mere reiteration of grounds which have already been considered and rejected cannot, by itself, furnish a basis for a different conclusion.

33. Tested on the aforesaid parameters, the principal ground projected by the applicant as constituting a change in circumstances does not, at this stage, persuade this Court. The applicant has sought reconsideration of his prayer for bail primarily on the premise that both the injured persons, namely, Tushar Sharma and Nikhil Bakshi, have been

discharged from the hospital at Ludhiana and that the circumstance which weighed with the learned Court below while declining bail has, therefore, ceased to exist. However, the latest status report placed on record indicates that the statement of injured Nikhil Bakshi is yet to be recorded and that the medical reports concerning his injuries are still awaited. Thus, the material circumstances which formed part of the basis for declining bail earlier cannot be said to have completely lost their relevance. The alleged change in circumstances, therefore, does not, by itself, justify a different view at this stage.

34. Another significant circumstance which weighs against the applicant is the stage of investigation. The material placed before this Court indicates that the investigation is yet at its nascent stage. Five of the accused persons are stated to be absconding; the statement of injured Nikhil Bakshi is yet to be recorded; the medical reports concerning the injuries sustained by him are awaited; and the weapons allegedly used in the commission of the offence have not yet been recovered. The Investigating Agency has also placed on record the seizure of the vehicle allegedly used in the commission of the offence and the material collected through statements of witnesses and analysis of Call Detail Records. Thus, the investigation cannot, at this stage, be said to have reached a stage where the apprehensions expressed by the prosecution can be brushed aside as vague or speculative.

35. The nature and manner of the alleged occurrence also cannot be lost sight of. The prosecution case is that the victims were intercepted while returning from their shop and were allegedly subjected to a concerted assault by several persons using hockey sticks, sharp-edged weapons and other weapons, resulting in serious injuries. The allegations are not, at this stage, liable to be characterized as vague or inherently improbable, particularly when the investigation has yielded statements of witnesses, seizure of the vehicle allegedly used in the occurrence and other material which is still under investigation. This Court is conscious that, at the stage of bail, it is neither permissible nor desirable to undertake a meticulous examination of the evidence or to record findings which may prejudice the trial. At the same time, the Court cannot altogether disregard the prima facie material placed on record.
36. The background preceding the present occurrence is also a circumstance which cannot be altogether ignored at this stage. It is the case of the complainant that, about two months prior to the present occurrence, one of the injured persons, namely, Nikhil Bakshi, had allegedly been attacked by 15-16 persons, in connection with which FIR No. 181/2026 came to be registered at Police Station Rajouri under Sections 333, 115(2), 191(2) & 304 of Bharatiya Nyaya Sanhita, 2023 (BNS). It is specifically alleged that Ritish Saryal, son of the applicant, and some other accused persons were involved in the said

occurrence and are also accused in the present FIR. It is further alleged that, following the said incident, the victims had been receiving continuous threats and warnings of dire consequences. Though the correctness and evidentiary value of these allegations are matters to be examined during the course of investigation and trial, the said circumstances, when considered along with the allegations in the present case, cannot be completely disregarded while assessing the apprehension expressed by the complainant regarding the safety of the victims and the possibility of the witnesses being influenced or intimidated. The fact that the statement of one of the injured persons is yet to be recorded also assumes relevance at this stage, particularly in the context of the apprehension expressed regarding the fair and unhindered progress of the investigation.

37. The alleged non-disclosure of FIR No. 35/2024 in the bail application also assumes significance. The applicant has, in paragraph No. 15 of the bail application, disclosed two earlier FIRs, while the status report placed before the Court refers to FIR No. 35/2024 as well. The explanation tendered on behalf of the applicant is that he was not aware of the registration of the said FIR. Whether such omission was deliberate or otherwise is not necessary to be conclusively determined at this stage. What remains material is that the bail application did not contain a complete disclosure of the criminal cases stated by the Investigating Agency to be pending against the applicant. This

incomplete disclosure of the criminal antecedents, therefore, constitutes an additional circumstance which weighs against the applicant.

38. The Hon'ble Supreme Court, in **'Zeba Khan v. State of U.P. & Ors', 2026 INSC 144**, has recently reiterated the obligation of an applicant seeking bail to make a full and candid disclosure of material particulars, including criminal antecedents. Such non-disclosure is, therefore, a relevant circumstance while assessing the applicant's entitlement to discretionary relief. The relevant paragraph of the judgment is reproduced as under:

"42. It has been consistently emphasized by this Court that an accused or applicant seeking bail is under a solemn obligation to make a fair, complete and (2023) 6 SCC 144 candid disclosure of all material facts having a direct bearing on the exercise of judicial discretion. Any suppression, concealment or selective disclosure of such material facts amounts to an abuse of the process of law and strikes at the very root of the administration of criminal justice."

39. The criminal antecedents of the applicant also assume significance in the present case. The status report records his involvement in three earlier FIRs, two of which are stated to be pending before the competent Court and one is stated to be under investigation. In this context, the observations of the Hon'ble Supreme Court in *Neeru Yadav v. State of U.P.*, (2016) 15 SCC 422, assume relevance. The Hon'ble Supreme Court observed:

"15. This being the position of law, it is clear as cloudless sky that the High Court has totally ignored the criminal antecedents of the

accused. What has weighed with the High Court is the doctrine of parity. A history- sheeter involved in the nature of crimes which we have reproduced hereinabove, are not minor offences so that he is not to be retained in custody, but the crimes are of heinous nature and such crimes, by no stretch of imagination, can be regarded as jejune. Such cases do create a thunder and lightening having the effect potentiality of torrential rain in an analytical mind. The law expects the judiciary to be alert while admitting these kind of accused persons to be at large and, therefore, the emphasis is on exercise of discretion judiciously and not in a whimsical manner.”

40. The aforesaid principle assumes particular significance in the present case, where the antecedents of the applicant are required to be considered alongside the nature of the allegations in the present FIR and the stage of investigation.
41. In the backdrop of the facts noticed hereinabove, the question as to whether the applicant deserves the discretionary relief of bail has to be examined by keeping in view not only the prima facie material concerning his alleged involvement, but also the nature and gravity of the accusations, his criminal antecedents, the stage of investigation, the fact that several co-accused are still absconding, the recovery of the alleged weapons is yet to be effected, and the possibility of his release having a bearing upon the witnesses and the course of investigation. These considerations assume particular significance in the present case, having regard to the manner in which the alleged occurrence is stated to have taken place and the material which has surfaced during investigation. The settled parameters governing the exercise of discretion in such matters may, therefore, be noticed.

42. The principles governing grant or refusal of bail are no longer *res integra*. In “**State through CBI v. Amarmani Tripathi**”, (2005) 8 SCC 21, the Hon'ble Supreme Court, while laying down the parameters governing consideration of bail applications, observed as under:-

“It is well settled that the matters to be considered in an application for bail are (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence; (ii) nature and gravity of the charge; (iii) severity of the punishment in the event of conviction; (iv) danger of accused absconding or fleeing if released on bail; (v) character, behaviour, means, position and standing of the accused; (vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being tampered with; and (viii) danger, of course, of justice being thwarted by grant of bail (see Prahlad Singh Bhati vs. NCT, Delhi 2001 (4) SCC 280 and Gurcharan Singh vs. State (Delhi Administration) AIR 1978 SC 179). While a vague allegation that accused may tamper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused.”

43. In ‘**Prasanta Kumar Sarkar v. Ashis Chatterjee & Anr.**’, (2010) 14 SCC 496, the Hon'ble Supreme Court has reiterated that the discretion in the matter of grant of bail is required to be exercised judiciously, cautiously and in accordance with the settled parameters governing such exercise. The Hon'ble Supreme Court observed as under:

“It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its

discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

(ii) nature and gravity of the accusation;

(iii) severity of the punishment in the event of conviction;

(iv) danger of the accused absconding or fleeing, if released on bail; (v) character, behaviour, means, position and standing of the accused;

(vi) likelihood of the offence being repeated; (vii) reasonable apprehension of the witnesses being influenced; and

(viii) danger, of course, of justice being thwarted by grant of bail.”

44. The aforesaid principles make it abundantly clear that while considering a prayer for bail, the Court is required to examine, inter alia, the existence of a *prima facie* case, the nature and gravity of the accusation, the severity of the punishment prescribed, the likelihood of the accused influencing witnesses or obstructing the course of justice and the larger interest of ensuring a fair trial.
45. Applying the aforesaid parameters to the facts of the present case, this Court finds that several considerations operate against the applicant. The allegations relate to a concerted and allegedly pre-planned assault upon two persons, involving the use of sharp-edged weapons resulting in serious injuries. The gravity of the allegations, coupled with the material collected during investigation, therefore, cannot be treated as a mere circumstance of accusation at this stage.

This is also required to be viewed in the background of the allegation that, approximately two months prior to the present occurrence, one of the injured persons had been subjected to another attack involving some of the co-accused in the present FIR and that threats had allegedly continued thereafter. The nature of the alleged occurrence and the punishment prescribed for the offences alleged are relevant considerations which weigh against the applicant.

46. Besides, the applicant, being a former Sarpanch and having regard to his standing in the locality, occupies a position where his conduct and actions may have a direct bearing on the society at large. In view of his standing in the locality and his criminal antecedents, his release at this stage gives rise to a reasonable apprehension that he may interfere with the ongoing investigation, tamper with the evidence, or influence and intimidate the witnesses, thereby causing a sense of insecurity among the victims and their family members and adversely affecting not only the fair course of the investigation and the administration of criminal justice but also the sense of security and confidence of the society at large.
47. The apprehension expressed by the prosecution regarding the applicant's possible interference with the investigation and the witnesses also cannot, in the facts of the present case, be brushed aside as a mere vague or fanciful apprehension. The complainant has specifically referred to

an earlier attack upon one of the injured persons approximately two months prior to the present occurrence, allegedly involving some of the co-accused in the present FIR, followed by continuous threats and warnings of dire consequences. Though these allegations are also subject to investigation and adjudication in accordance with law, they constitute a relevant circumstance while assessing the apprehension expressed by the victims and their family members. Five co-accused are still absconding, one of the injured persons is yet to be examined and recovery of the weapons allegedly used in the occurrence remains pending. In such circumstances, the possibility of the applicant influencing the witnesses, hampering the investigation or otherwise obstructing the course of justice is a relevant consideration while deciding whether he should be permitted to remain at large.

48. The Hon'ble Supreme Court in **'Manik Madhukar Sarve & Ors. v. Vitthal Damuji Meher & Ors.'**, (2024) 10 SCC 753, has reiterated that the Court, while considering grant of bail, is required to take into account the nature of the accusation, the role attributed to the accused, the possibility of tampering with the evidence or witnesses, the antecedents of the accused and the flight risk. The Hon'ble Supreme Court observed:

“19. Courts while granting bail are required to consider relevant factors such as nature of the accusation, role ascribed to the accused concerned, possibilities/chances of tampering with the evidence and/or witnesses, antecedents, flight risk et al. Speaking through Hima Kohli, J., the present coram in Ajwar v Waseem,

2024 SCC OnLine SC 974, apropos relevant parameters for granting bail, observed:

“26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail.”

49. The same principle finds further support from **‘Prahlad Singh Bhati v. NCT, Delhi & Anr.’, (2001) 4 SCC 280**, wherein the Hon'ble Supreme Court held as under:

“The jurisdiction to grant bail has to be exercised on the basis of well settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the Legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the

charge. It is not excepted , at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt.”

50. In the present case, the material placed before this Court discloses a *prima facie* case requiring further investigation. The nature of the accusations, the material collected so far, the antecedents of the applicant, the pending arrest of several co-accused, the apprehension of interference with witnesses and the larger interest of ensuring an unhindered investigation, when considered cumulatively, do not justify the applicant's release at this stage.
51. The applicant's reliance upon the CCTV footage installed at the petrol pump also does not persuade this Court to take a different view at this stage. The said footage is relied upon to support the applicant's assertion regarding his presence at the petrol pump at the relevant time. However, its evidentiary value, authenticity, continuity and ultimate effect upon the prosecution case would require appreciation in the light of the entire evidence. This Court, while exercising jurisdiction at the stage of bail, cannot undertake a detailed appreciation of such material or conclusively determine the applicant's assertion regarding his absence from the place of occurrence. The effect of the CCTV footage is, therefore, best left for consideration during trial.
52. The Hon'ble Supreme Court, in **“Mahipal v. Rajesh Kumar @ Polia”, (2020) 2 SCC 118**, has held that while considering bail, the Court need not undertake a detailed analysis of the

evidence but must examine whether a *prima facie* case exists.

The Hon'ble Supreme Court observed as under:-

“12. The determination of whether a case is fit for the grant of bail involves the balancing of numerous factors, among which the nature of the offence, the severity of the punishment and a prima facie view of the involvement of the accused are important. No straight jacket formula exists for courts to assess an application for the grant or rejection of bail. At the stage of assessing whether a case is fit for the grant of bail, the court is not required to enter into a detailed analysis of the evidence on record to establish beyond reasonable doubt the commission of the crime by the accused. That is a matter for trial. However, the Court is required to examine whether there is a prima facie or reasonable ground to believe that the accused had committed the offence and on a balance of the considerations involved, the continued custody of the accused sub-serves the purpose of the criminal justice system...”

53. Thus, at the stage of consideration of bail, the Court is not expected to undertake a meticulous appreciation of the evidence or record findings on the merits of the prosecution case. The enquiry is confined to examining whether the material placed on record discloses a *prima facie* case and whether the larger interests of justice warrant the continued custody or release of the accused.
54. The aforesaid principles have also been reiterated in **“Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav”, (2004) 7 SCC 528**, wherein the Hon'ble Supreme Court held that while dealing with bail in serious offences, the Court must exercise its discretion judiciously and record reasons indicating its *prima facie* satisfaction before granting or refusing bail.

55. While the personal liberty of an individual is undoubtedly a valuable and fundamental right, the same cannot be considered in isolation while examining a prayer for bail. The Court is required to balance such liberty against the nature and gravity of the accusations and the material brought on record, so as to arrive at a prima facie view without undertaking a detailed examination of the evidence. In the present case, the allegations relate to a serious and allegedly pre-planned assault involving the use of weapons, and the material collected during the course of investigation, at this stage, does not permit the accusations to be regarded as false, frivolous or vexatious. The exercise of discretion, therefore, has to be based upon a due consideration of the relevant facts and circumstances bearing upon the entitlement of the applicant to bail.

56. The Hon'ble Supreme Court in '**Brijmani Devi v. Pappu Kumar**', (2022) 4 SCC 497, has emphasized that while personal liberty is an invaluable right, the Court must also have regard to the serious nature of the accusations, the material brought on record, the criminal antecedents of the accused and the nature of punishment that may follow upon conviction. The relevant paragraph of the judgment is reproduced as under:

“25. While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail Courts cannot lose sight of the serious nature of the

accusations against an accused and the facts that have a bearing in the case, particularly, when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record so as to enable a Court to arrive at a prima facie conclusion. While considering an application for grant of bail a prima facie conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the nature of crime, the criminal antecedents of the accused, if any, and the nature of punishment that would follow a conviction vis-à-vis the offence/s alleged against an accused.”

57. Thus, while considering a prayer for bail, the Court is required to balance the liberty of the accused with the larger interest of society and the fair administration of criminal justice. The nature and gravity of the accusation, the severity of the punishment prescribed, the existence of a prima facie case, and the likelihood of the accused influencing witnesses or otherwise obstructing the course of justice are among the relevant considerations which must guide the exercise of judicial discretion.

CONCLUSION:

58. Viewed cumulatively, this Court finds that the circumstances which weighed with the learned Court below have not undergone such a material change as would justify a different conclusion and the release of the applicant at this stage. The allegations concern a serious and allegedly pre-planned assault involving several accused persons and the use of weapons; the investigation is yet to be completed; five accused persons are still absconding; the statement of one of the injured persons is

yet to be recorded; the medical material relating to his injuries is awaited; the weapons allegedly used in the occurrence have not yet been recovered; and the applicant's antecedents, coupled with the incomplete disclosure thereof in the bail application, also weigh against the exercise of discretion in his favour. The apprehension of the prosecution that his release may have a bearing upon the remaining investigation and the witnesses, therefore, cannot be said to be without basis.

59. This Court is conscious that personal liberty is a valuable constitutional right and that pre-trial incarceration cannot be permitted to become punitive in character. However, the grant of bail is not to be made as a matter of course, and the discretion has to be exercised upon a judicious assessment of the competing considerations. In the present case, the gravity and manner of the alleged occurrence, the prima facie material collected during investigation, the antecedents of the applicant, the incomplete investigation and the possibility of interference with the witnesses and evidence, when considered cumulatively, outweigh the considerations advanced on behalf of the applicant.
60. Consequently, having regard to the totality of the facts and circumstances noticed hereinabove, this Court is of the considered view that the applicant has failed to make out a case for grant of regular bail. The instant bail application is, accordingly, **dismissed**.

61 It is, however, clarified that the observations made hereinabove are confined strictly to the adjudication of the present bail application and shall not be construed as an expression of opinion on the merits of the prosecution case. The learned Trial Court shall consider the matter independently, on the basis of the evidence brought on record before it and in accordance with law.

(Wasim Sadiq Nargal)
Judge

Jammu
01.09.2026
Tarun/Vijay

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

