

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CrIA (D) No. 42/2024

Reserved On: 11th of March, 2026.

Pronounced On: 23rd of March, 2026.

Uploaded On: 23rd of March, 2026.

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

Rubeena Begum, Age: 33 Years
W/O Tahir Iqbal Mir
R/O Hirri Bala, Tehsil Trehgam,
District Kupwara.

... Appellant(s)

Through: -
Mr T. A. Lone, Advocate.

V/s

- 1. Union Territory of Jammu and Kashmir,**
Through SHO Police Station, Trehgam, Kupwara.
- 2. I/C Police Post, Awoora, District Kupwara,**
FIR No. 04/2022 u/s 7/25 I. A. Act and 13, 20, 40
ULA (P) Act of P/ S Trehgam.

... Respondents

Through: -
Ms Maha Majeed, Assisting Counsel.

CORAM:

HON'BLE MS JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR JUSTICE SHAHZAD AZEEM, JUDGE

(JUDGMENT)

SHAHZAD AZEEM-J:

01. This appeal under Section 21 of the National Investigation Act, 2008 ["NIA Act"] is directed against the Order dated April 04, 2024 passed by the learned Special Court (Kupwara), designated under NIA Act ["the Trial Court"], whereby the application seeking release of vehicle in FIR No.

04/2022 under Section 7/25 Indian Arms Act [IA Act] and 13, 20 & 40 of the Unlawful Activities (Prevention) Act, 1967 [“UAPA Act”] came to be dismissed.

02. Briefly stated, the Prosecution story is that, on January 22, 2022, an Over Ground Worker (OGW), namely, Fareed Ahmed Chouhan S/O Shamas-u-Din R/O Reshiwari, Awoora, Zurhama, was apprehended in an anti-militancy operation launched by police of Police Post Awoora Camp, Zurhama, under the jurisdiction of Police Station Trehgam and, during his personal search, one Chinese pistol, one pistol magazine, five pistol rounds and one Mobile Model VIVO, alleged to have been recovered. Accordingly, a formal case, as aforementioned, came to be registered at Police Station Trehgam and investigation taken up.

03. During the investigation, huge quantity of arms, ammunition and foreign currency notes came to be recovered from the residence of the accused on January 23, 2023, including country made pistol, pistol magazines, pistol rounds, 35 Bayonet, Compass (made in Japan), Cell Charger and foreign currency notes of various denominations comprising American (US), Chinese, Kuwait, UAE, Afghan and other countries, were seized and taken in possession.

04. During further investigation, it came to fore that the accused has purchased one LMV JK09C-1586 TATA-NEXON from unknown sources which was being used by him for transportation of illegal weapons, therefore, it was also seized.

05. It is this vehicle which came to be seized from the possession of the accused-Fareed Ahmed Chouhan and is the subject matter of instant appeal, in that, the precise submission is that the registered owner of the vehicle is the Appellant, however, the Appellant has executed a Power of Attorney dated July 08, 2021 in favour of the accused and also has given the possession of said vehicle to the accused for sale consideration of Rs. 12,10,000/-, out of which the accused-Attorney Holder stated to have paid

Rs. 6,30,000/- to the Appellant. However, since the accused-Attorney Holder is behind bars, therefore, Appellant has initially moved an application before the Trial Court for release of vehicle being its registered owner, but the Trial Court has dismissed the application, after holding that the Applicant has parted with the possession of the vehicle on its transfer to the accused, therefore, she has no *locus* to reclaim its custody.

06. Now, by virtue of the instant appeal, the Order of the Trial Court, whereby application for release of vehicle has been dismissed, is sought to be challenged mainly on the ground that the Appellant is registered owner and, secondly, the vehicle is neither used for militancy related activities nor anything objectionable has been recovered from the said vehicle.

07. The further submission is that the accused-Attorney Holder is behind the bars, therefore, she being registered owner has a right to stake claim to the possession of the vehicle.

08. *Per contra*, Objections have been filed by the Respondents, wherein the appeal is mainly opposed on the ground that the vehicle is being purchased from the proceeds of militancy related activities and same is involved in transportation of arms and ammunition, therefore, the Appellant cannot claim the possession of the vehicle as she had already parted with its possession.

09. Heard learned Counsel for the parties and perused the record.

10. Upon going through the memo of appeal and the orders of this Court passed from time to time, we are confronted with certain disturbing facts. Therefore, at the outset, we proceed to deal with this aspect of the matter.

11. Indisputably, the Appellant's case is that she has executed Power of Attorney in favour of the accused and also parted with the possession of the vehicle, however, due to complicity of the accused in

militancy related activities, he is sent behind the bars, therefore, she being the registered owner, is entitled to the custody of the vehicle.

12. Conversely, in the memo of appeal, the Appellant, in para 2, has specifically stated that she has executed Power of Attorney dated July 08, 2021 in favour of Fareed Ahmad Chouhan and, accordingly, possession and custody of said vehicle was given to the said person. It is further stated that the vehicle in question is financed from the J&K Grameen Bank, Branch office Gulgam, Kupwara and instalments are being paid by the Appellant. Immediately, in the following para 3, the Appellant submits that the Attorney Holder of the vehicle in question was arrested in the FIR, as such, instalments of the finance/ loan amount could not be deposited.

13. It is also equally noteworthy that vide Orders dated October 08, 2025 and November 10, 2025, respectively, the Appellant was directed to produce the original Power of Attorney, but she failed to produce the same. To the contrary, the Respondents, in their Response dated December 12, 2025 filed in compliance to the Orders dated October 08, 2025 and November 10, 2025, respectively, specifically stated that in compliance to the orders passed by the High Court, the Appellant was directed to produce the original documents, i.e., Special Power of Attorney executed by the Appellant in favour of the accused-Fareed Ahmad Chouhan, but she failed to produce the same and stated that the original documents have already been produced before the High Court, whereas, fact remains that the Appellant was twice directed to produce original Power of Attorney, but she failed to produce the same before the Court.

14. From the above noted facts, it is conspicuous that the Appellant has approached the Court with unclean hands, rather she has made misrepresentation and also taken contradictory and prevaricated stand, that defeats her claim to the custody of the vehicle in question.

15. There is another aspect of the matter that cannot be lost sight of that as per the stand taken by the Appellant, she had parted with the

possession of the vehicle and also accepted the sale consideration of the vehicle in question, therefore, cannot reclaim the possession of the vehicle under the garb of Court orders, when neither the vehicle is seized from her possession nor she is the owner of the vehicle in the strict legal sense after executing the Power of Attorney in favour of the accused. In this view of the matter, the Appellant has no *locus* to maintain the Appeal. Therefore, on this count also, the appeal is not maintainable.

16. There is also a third dimension to the matter on hand that the Appellant, though is staking claim to the entitlement of the vehicle in question, but, at the same time, she is even denying its constructive possession when the vehicle was allegedly found involved in the transportation of arms and ammunition. In this regard, the Trial Court has rightly concluded, while dismissing the application, as being misconceived and a ploy invented by the accused to get the vehicle in question released with the assistance of the registered owner of the vehicle, thereby causing prejudice to the Prosecution.

17. At this stage, we deem it proper to sound a note of caution that from the Status Report dated December 12, 2025, it is seen that till date no confiscation proceedings have been initiated in respect of the vehicle in question, though the Prosecution case is that the vehicle is being purchased and procured out of the proceeds of militancy related activities, in that, the accused was allegedly found involved in unlawful activities, being member of a terrorist organization, and also found to have been raising funds for terrorist organization, therefore, the Investigating Agency was enjoined upon to promptly proceed in terms of Chapter V of the UAPA Act, but nothing of the sort is forthcoming.

18. For the foregoing reasons, it is held that the Appellant has no *locus standi* to maintain the appeal. The appeal also suffers from *suppressio veri and suggestio falsi* and, therefore, the Appellant has grossly abused the process of the Court.

19. With the above observations, the present appeal is found to be misconceived and, accordingly, same is **dismissed**, along with connected CrIM(s).

20. Let a copy of this Order be also forwarded to the SSP, Kupwara for information and compliance, insofar as proceeds of terrorism is concerned.

(SHAHZAD AZEEM)
JUDGE

(SINDHU SHARMA)
JUDGE

SRINAGAR
March 23rd, 2026
"TAHIR"

i. Whether the Judgment is approved for reporting? Yes.

