

**IN THE HIGH COURT OF JAMMU AND KASHMIR
AT SRINAGAR**

Through Video Conferencing

EMG-Crl(M) 46-A /2020in bail app no. 44-A/2020

Abid Najar

.....Petitioner

Through: Sheikh Manzoor, adv.

V/s

Station House Officer(SHO) P/S Nowgam, Budgam.

.....Respondent(s)

Through: Mr. B.A Dar, Sr. AAG.

CORAM:

HON'BLE MR JUSTICE ALI MOHAMMAD MAGREY, JUDGE

Whether approved for reporting? Yes/NO

Order

20.05.2020

Heard learned counsel for petitioner through video conferencing.

This application is filed by the learned counsel for the applicant-accused seeking grant of bail in FIR no.01/2018 of Police Station Nowgam u/s 306, 304-B, 498-A RPC.

Mr. Sheikh Manzoor learned appearing counsel for the applicant-accused submits that on completion of investigation police submitted a final report before the Court of Principal Sessions Judge, Budgam.

It is submitted that in terms of order dated 10.03.2020, the charge stands framed against the applicant-accused and the prosecution has been asked to lead evidence. Pending such trial, the bail application has been rejected on the objection of the prosecution that the trial court lack jurisdiction.

Mr. Sheikh Manzoor learned appearing counsel for applicant-accused has vehemently argued and submitted that if the court has no jurisdiction to grant the bail, then how can the trial court is proceed in the matter..

Heard learned counsel for the applicant-accused and considered the matter. Perused the record available on the file.

Without going to the merits of the case, the Court is of the considered view that the rejection of the bail application on the ground taken therein, is unwarranted, in the fact situation of the case.

The trial court is proceeding the trial, therefore, to grant or reject bail on the objection of the prosecution has no relevance and substance.

With this background, the order passed by learned Principal Sessions Judge, Budgam dated 27.04.2020 is set aside with direction to consider the bail application afresh notwithstanding the objection of prosecution on the jurisdiction.

The parties shall appear before the Court below on 26th May, 2020. The Registry shall send a copy of this order to Principal Sessions Judge Budam through e-mail today itself copy whereof shall be conveyed to learned counsel for the parties to e-mail.

Disposed of.

(Ali Mohammad Magrey)

Judge

Srinagar
20.05.2020
ayaz

- i. Whether the order is speaking: Yes/No
- ii. Whether the order is non-speaking : Yes/No.

