

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

EMG-CrIM No. 10-A/2020

In EMG-BA No. 06-A/2020

Mst Zoona

...Petitioner(s)

Through: Mr Zahoor Ahmad Bhat, Advocate.

vs

Union Territory of JK & Ors.

...Respondent(s)

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

CORAM:

Hon'ble Mr. Justice Ali Mohammad Magrey, Judge

ORDER

30.04.2020

Objections stand filed.

Petitioners have approached this Court seeking grant of bail in case FIR No. 25/2019 for offences under section 306, 304-B, 498-A and 201 of RPC, on the grounds detailed out in the application with particular reference that codal principles for grant of bail are available to the petitioners as there is no chance of their approaching the witnesses or tampering with any material, as on completion of investigation, the final report under section 173 of CrPC stands filed before the Court of Principal Sessions Judge, Budgam. It is submitted that there is no bar for grant of bail in favour of the petitioners with application of law for the alleged commission of offences pending trial. Learned counsel appearing for the petitioners further submitted that the material listed witnesses on record on the basis of reading their statements, does not disclose the offence as detailed out in the FIR. He further submitted that the trial court has also recorded the statement of material witnesses even after rejection of bail and most of them have turned hostile and have not supported the prosecution case, which forms the basis for grant of bail. Learned counsel appearing for the

petitioners has placed on record the statement of the witnesses alongside the bail application.

Mr B.A. Dar, learned Senior AAG while opposing the grant of bail, submitted that the offence committed by the petitioners is heinous and has far reaching consequences on the society. He further submitted that the petitioners have already suffered rejection of bail at the hands of the trial court on the basis of available record.

Heard learned counsel for the parties.

On consideration of the matter, the Court is of the considered view that the proper course for this case to be adopted is to ask the trial court to re-consider the bail application of the petitioners afresh on the material supporting their contention and the contentions to be raised by the prosecution. While considering the application seeking bail, the trial court shall not be influenced by the observations made or findings records in the order of rejection, which in other words mean that the bail application be considered afresh by treating the rejection order as non-existent by adhering to all the provisions of law. The parties are directed to appear before the trial court on Saturday, i.e. 2nd of May, 2020, with liberty to the petitioners to supplement the bail application on additional grounds, which application is directed to be decided afresh as expeditiously as possible and not later than one week thereafter.

With the aforesaid observations, the bail application alongwith connected CrIM(s) shall stand *disposed* of.

Copy of order be furnished to the appearing counsel for the parties and one to be sent to Principal Sessions Judge, Budgam, through email.

(Ali Mohammad Magrey)
Judge.

SRINAGAR;
30.04.2020
"Hamid"

NO:-58/C-19/RJS

Dated:-30.04.2020

Copy of Hon'ble Court Order forwarded to Pr. Sessions Judge Budgam as also to learned counsels for parties through email, for information and compliance.

SD/-

Registrar Judicial