

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CrlA(D) No 16/2025

CrlM No. 409/2025

Reserved On:- 21.05.2025

Pronounced on :- 27.05.2025

Mohd. Sharief Chechi Aged 58 years S/o
Ghulam Mohd. Chechi R/o Hathlanga Uri
Baramulla Kashmir through his wife Shakeela
Begum aged 40 years W/o Mohd. Sharief Chechi
R/o Hathlanga Uri Baramulla Kashmir

....Petitioner(s)/Appellant(s)

Through :- Mr. Gagan Basotra, Sr. Advocate with
Ms. Navdeep Kour, Advocate

Versus

1. UT of J&K Through Superintendent
District Jail Ambphalla

2. Station House Officer Police Station
Gandhi Nagar/SIA Jammu

....Respondent(s)

Through :- Mrs. Monika Kohli, Sr. AAG

**CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE**

ORDER
27.05.2025

1. The appellant-Mohd. Sharief Chechi feeling indignant of the rejection of bail application vide order dated 15.02.2025 passed by the learned 3rd Additional Sessions Judge, Jammu (Designated Court under TADA POTA UA (P) Act Cases) [hereinafter referred to as “**the Trial Court**”] in file No. Bail App/89/2025, titled UT of J&K Vs. Mohd. Sharief Chechi involved in case FIR No. 73/22 under Sections 13, 16, 18, 20, 21, 38, 39 & 40 of UAP Act and 120-B IPC and 8/22/23/27-A/29 of NDPS Act has filed the present appeal.

2. Before advertng to the grounds of challenge, the accusation against the appellatnt needs to be taken note of in brief.

3. The accusation germane to the registration of a formal case against the appellatnt and subsequent laying of charge-sheet is that initially, a docket was received from Incharge Police Post, Nehru Market to the effect that on the direction of Pakistan based Intelligence Agency, ISI and terrorist groups, a resident of Anantnag, namely, Mohd. Shareef Shah has been travelling from Kashmir to Jammu for the purpose of delivery of hawala money to one Jatinder Singh @ Babu Singh, (Ex-MLA, Ex Minister) so as to finance, Jammu based separatist and secessionist groups/parties to carry out subversive activities against sovereignty, integrity and security of Union of India.

4. On receipt of this information, a Naka was laid near Tawi bridge at about 2300 hours and during naka checking, Mohd. Shareef Shah was intercepted and on frisking, an amount to the tune of Rs. 6.90 lacs (in Indian currency) recovered, which was concealed in a black coloured bag. Accordingly, this led to registration of a formal FIR No. 73/22 under Section 13, 17, 18, UA(P) Act, at Police Station, Gandhi Nagar, Jammu and investigation taken up. Later on, this investigation was transferred to SIA, Jammu.

5. During the course of investigation, it came to fore that accused, Jatinder Singh @ Babu Singh has received an amount of Rs. 6,90,000 from terrorist organization such as, Hizb-ul-Mujahideen and JKLF for the purposes of carrying out terrorist activities so as to bring unrest in the country. Initially, the charge-sheet was laid on 24.09.22 against three accused namely, Jatinder Singh @ Babu Singh, Mohd. Sharief Shah and Mohd. Hussain Khateeb, respectively, however, since same had internal and external dimensions as

subversive activities were being carried out from across the border, therefore, further investigation continued.

6. During further investigation, three more supplementary charge-sheets were laid against different accused on the basis of material collected and their involvement in the subversive and terrorist activities was established.

7. As stated hereinabove, though initially, the FIR was registered on the basis of an information received regarding pumping of hawala money by accused Mohd. Shareef Shah, but when further investigation progressed, the involvement of organized gang surfaced, including that of the appellant-Mohd. Sharief Chechi being one of their conduits. The allegations against the appellant are that Mohd. Sharief Chechi, Farooq Ahmed Jungal, Saif Din, Hamidullah Khuroo, Farooq Ahmed Shawl and Javid Ahmad Chalkoo have willfully and intentionally indulged in making, keeping in possession, selling and transporting narcotic for generating and distributing narco-terror-funds acquired out of above illegal trade of narcotics among the OGWs/other supporters of terrorism on the directions and in connivance of other terrorists and terrorist organization having roots in PoK etc.

8. From the perusal of the record, it also appears that the appellant-accused was arrested on 24.08.23 and the supplementary challan against him was presented on 20.02.24. The period of incarceration of the appellant is about 1 year 08 months only.

9. In order to show that the appellant-accused was continuously into the drug trafficking and raising funds for terrorist activities, it is suffice to say that previously also in a investigation, it came to fore that in the month of December, 21, the appellant along with other accused have smuggled 5 kg of narcotics from Pakistan through LoC, and was sold to raise terror funds, which

lead to registration of case FIR No. 98/23 dated 24.07.23 under Section 8/21/29 NDPS Act against the appellant-accused for possessing 276 gms of Heroin and was, accordingly, arrested in the said FIR also.

10. While going through the details of hawala funding given in the supplementary challan, one would find that a number of transactions alleged to have been made running in crores for carrying out subversive activities, by the appellant herein, and co-accused, who are conduits and allegedly taking diktats across the border for the purposes of carrying out terrorist activities, by raising funds from the narcotics being smuggled into this part of the country.

11. Although, there are minute details given in the supplementary charge-sheet regarding the role of each and every accused, but for the purpose of the present appeal, we feel that the facts taken note of are sufficient.

12. Now coming to the grounds of challenge, it is suffice to say that while questioning the legality of impugned order on customary grounds and pleading innocence, the main thrust of the appellant is the ailment of his wife- Shakeela Begum, who was diagnosed with Calculi in Lumen. In this regard, the appellant has submitted that due to the rejection of bail by the trial Court, wife of the appellant could not undergo the scheduled surgery and the same is now postponed to 26.03.25. According to the appellant, her wife needs immediate medical intervention and there is no one at home to take care of her, therefore, his presence is required for the medical treatment of his wife.

13. *Per Contra*, the bail application has been opposed on the ground that the appellant-accused is involved in heinous crime and in view of the nature of material collected during investigation, if he has been admitted to bail at this stage, he will thwart the course of justice.

14. Heard and considered.

15. At the outset, it is to be noticed that in view of the specific plea raised by the appellant that his presence is required for the surgery of his wife, which was scheduled earlier but postponed, we have called the medical record of the wife of the appellant-accused, namely, Shakeela Begum. Same is on record. Perusal of the medical record, reveals that the wife of the accused, namely, Shakeela Begum was scheduled to undergo elective Gall Stone Removal on, 19.02.25, however, same was postponed on her request and re-scheduled for 26.03.25.

16. There is no gainsaying that while considering the bail application for the offences under UA(P) Act or NDPS Act, same are subject to stringent conditions, unless some exceptional circumstances have been shown.

17. Under Section 43-D (5) of UA (P)Act, bail is highly restricted and in the case on hand, the involvement of the appellant in addition is also shown for commission of offence under Section 8/22/23/29/27-A of the NDPS Act. Therefore, the rigors of Section 37 NDPS Act also comes into play. Thus, before considering the bail application, the appellant has to cross the twin conditions which are almost *pari materia* as enumerated under Section 37 of NDPS Act and Sectin 43-D(5) of UA(P) Act.

18. The stringent bail provisions under both Acts make it highly challenging to secure bail unless the accused can demonstrate a strong case of innocence or procedural lapses by the prosecution. Turning to the case on hand, the appellant did not even make an slight attempt to show that there is any procedural lapse or no prima facie material exists against him, but mainly banked upon the medical condition of his wife.

19. Now coming to the main argument and the ground taken by the appellant for grant of bail that his wife needs to undergo elective Gall Stone Removal and his presence is urgently required. In this regard, nothing emergent or serious has been reported, rather wife of the appellant has to undergo elective Gall Stone Removal which is generally an elective, non-emergency procedure, therefore, in view of the fact that the ground of bail on the plea of the surgery of his wife does not show any sign of emergency, as such, the same does not call for interference at this stage.

20. In the above backdrop, and in view of the nature of accusation, the stage of trial, time since incarceration, previous history of alleged terror funding activities, and no medical urgency reported, we do not find any illegality in the impugned order of the trial Court, which calls for interference. Accordingly, the appeal being bereft of merit, is dismissed.

21. The observations made in this order are limited to the adjudication of the present bail application and shall not prejudice the merits of the case during trial.

(Shahzad Azeem)
Judge

(Sindhu Sharma)
Judge

Jammu:
27.05.2025
Tarun/PS

Whether the order is speaking?
Whether the order is reportable?

Yes
Yes