

# COURT OF PRINCIPAL SESSIONS JUDGE, KULGAM

CNR No. JKKG010001292021

**Name of the Petitioners :-**

1. Maqsood Ahmad Dar
2. Jahangir Ahmad Dar Sons of  
Mohd Shaban Dar
3. Ishfaq Ahmad Dar S/O Gh. Mohi-ud-din Dar  
All residents of Shurat Tehsil and District Kulgam.  
Through: Mr. Asif Hassan Dar, Advocate.

**Versus**

**Name of Respondent:**

Union Territory of J&K through SHO Police  
Station, Kulgam  
FIR.No.12 of 2021 u/s 147,458,427,392,354-B,506 IPC  
**Through:** Mr. Aijaz Ahmad Najar, PP for UT of J&K

**In the matter of:**

Petition under section 438 Code of Criminal Procedure, 1973 for grant  
of bail in anticipation of arrest in favour of the Petitioners.

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**Coram:                   Tahir Khurshid Raina**  
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## ORDER

1. Applicants filed an anticipatory bail application, projecting their apprehension to be arrested by the non-applicant on the basis of a false and frivolous complaint lodged by the wife of the applicant No.1 against them.
2. That a pure matrimonial dispute between husband - wife has been projected by the complainant as the grievous criminal offence committed by the applicants just to ensure their arrest. For that she has manipulated the facts

as that of robbery and lurking home trespass to cause hurt by night.

3. On the basis of these averments made in the application, the court granted the interim bail to the applicants on 26.02.2021 to be applicable in the offences punishable upto 10 years of imprisonment. Meanwhile report was also called from the prosecution on the next date fixed i.e. on 08.03.2021. Same was not filed. However, it got filed on 18.03.2021. Thereafter, direction for production of CD file along with I.O was given by the Court on 18.03.2021 and in the meanwhile interim bail stand extended.
4. Today C.D file has been produced by the I.O. The complainant in the case is also present. Perusal of the report and the CD file reveals that accused is booked in the heinous offence as defined u/s 392 punishable with 10 years imprisonment. This interim bail was subjected to certain conditions wherein one of the star condition was that accused will cooperate in the investigation. As per C.D. File, the accused handed over this order to the I.O on 20.04.2021 means after passing of one and half month of grant of interim bail the applicants brought the order of this court in the notice of the Investigating officer. It is a glaring violation of the bail condition which amounts to disrupting the fair and speedy investigation in the case.
5. Even the material on record suggests that applicants along with other co-accused attacked the complainant lady and her daughter that too after the sunset. Even if she is wife of accused No.1, does not give him an authority to engage other persons and attack her, assault her and drag her out

of her home and then claim it to be a matrimonial dispute. Such a mode of settling matrimonial dispute is unknown to the civilized system, but a pure beastly act highly condemnable.

6. The criminality of the applicants is on the face of the record, and injury form in the C.D file carries details of injuries inflicted by them on the body of the complainant, prima- face reflects the complicity of the applicants in the commission of the crime.
7. Anticipatory bail is not meant for those who do rank criminality against the helpless woman and then claim protection from arrest. It will be sheer misuse of the provision of the law.
8. Let a message must travel in the length and breadth of this society not to be the tormentors of the dignities of the women but their saviours, especially the husband to act in the most decent manner with his wife and not as a goon who forms an unlawful assembly in the wee hours with other people, lurk into the house of the wife drag her and assault her blue and black, which is on the face of the record.
9. It is said that if we have to judge the character of any society, see how better they treat their women folk. In this context, both on moral, social and legal touch stone the alleged criminality of the applicants-accused does not entitle them for exercising of discretion of grant of bail in their favour by the court.
10. The mandate of judgments presented by the counsel for the accused cannot be invoked at this stage as the

investigation in the case is still on and criminality of the accused is on the face of record which distinguishes them from the facts and circumstances of the case in hand as discussed in the forging paras.

11. For all said and discussed, this bail application is without any merit and is accordingly dismissed.
12. Be consigned to records after its due compilation.
13. CD file is returned to the Ld. PP in the open Court.

**Announced:**

**26.04.2021**

**“T.A.Dar”**

**Principal Sessions Judge,  
Kulgam**