

S. No. 34
Before Notice matter

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

Crl R No. 25/2022

Nigeena

.....Petitioner(s)

Through: Mr. Z. A. Qureshi, Sr. Adv.
With Ms. Rehana, Adv.

V/s

UT of J&K through Sr. AAG and anr.

..... Respondent(s)

Through: None.

CORAM:

Hon'ble Mr. Justice Sanjay Dhar, Judge.

ORDER

31.08.2022

1. The petitioner has challenged order dated 13.08.2022 passed by the learned Principal Sessions Judge, Shopian whereby while considering the bail application of the petitioner, learned Sessions Judge has observed that because order dated 23.12.2021 passed by the said court has been stayed by this Court in another petition, as such, the bail application cannot be considered till the matter is disposed of by the High Court.
2. Heard learned Senior Counsel appearing for the petitioner and perused the record.
3. It appears that on 23.12.2021, learned Principal Sessions Judge, Shopian had passed an order whereby application under Section 319 of the Cr. PC was allowed and one Fayaz Ahmad Mir was arraigned as an accused in the main challan. The said order came to be challenged before this Court by way of Crl R No. 34/2021 and vide order dated 12.01.2022 passed in

the said petition, the aforesaid order of the learned Sessions Judge was stayed.

4. Mere staying of the order of impleading additional accused by this Court does not mean that the trial in the main challan stands stayed. By way of the application that was moved by the petitioner before the trial court, she had only sought bail in her favour and she had not sought taking up of further steps in the trial of the case. The learned trial court was duty bound to consider the said application on its merits. The impugned order passed by the learned trial court declining to consider the bail application of the petitioner, is on the face of it, illegal and as such the same, deserves to be set aside.
5. Accordingly the petition is allowed and the impugned order passed by the learned Principal Sessions Judge, Shopian on 13.08.2022 is set aside and he is directed to consider the bail application of the petitioner on its own merits in accordance with law.
6. Disposed of as above.
7. Copy of this order be sent to the learned Principal Sessions Judge, Shopian.

(Sanjay Dhar)
Judge

SRINAGAR
31.08.2022
"Aasif"