

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) 57/2025
CrlM(107/2025) CrlM(861/2025)

BASHIR MOHAMMAD CHOUDHARY

.....Petitioner(s)

Through: Ms Ainain Qadiri, Advocate
V/s

**UNION TERRITORY THROUGH VIGILANCE ORGANIZATION
KASHMIR (NOW ACB) AND ANR.**Respondent(s)

Through : Mr.Mohsin Qadiri, Sr.AAG

CORAM:

HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER(Oral)

22.07.2026

1. Through the medium of the present petition, order dated 19.05.2023 passed by the learned Chief Judicial Magistrate, Srinagar, has been called in question by the petitioner. Vide the said order, application of the petitioner seeking release of the amount lying in a Fixed Deposit Receipt (FDR), which has been prepared out of the proceeds of Demand Draft that was seized during investigation of FIR No.36 of 2003 of Police Station Vigilance Organisation Kashmir (VOK), has been dismissed. Challenge has also been thrown to order dated 22.12.2011 passed by the learned Chief Judicial Magistrate, Srinagar, whereby the learned Magistrate has, while directing conversion of Demand Draft into FDR, refused to release proceeds of FDR and the interest accrued thereon till the conclusion of the trial.

2. Heard and considered.

3. It appears that Police Station VOK, upon information received from reliable sources regarding illegal sale of question papers of MD/MS Entrance Examination to be conducted by the Board of Professional Entrance Examination, registered FIR No.36/2003 and started investigation of the case. During the course of investigation, it was found that accused had collected huge money through bank drafts. One of the bank drafts was prepared by Dr. Shagufta of Nursing Garh, Srinagar, from J&K Bank Branch Bone and Joint Hospital, Barzulla Srinagar which was bearing No.525051 dated 03.12.2003, amounting to Rs.4,00,000/- in favour of Dr. Mohammad Sadiq Mughal, who is one of the accused in the charge-sheet. Dr.Shagufta happens to be the wife of the applicant and the aforesaid demand draft was seized by the investigating agency from the premises of the accused.

4. On 19.07.2005, the learned trial Court granted interim custody of the said demand draft to the petitioner with a direction to produce the same before the Court as and when directed and it was further provided that the petitioner shall not get the disbursement of the amount in question till further orders of the Court.

5. It seems that the petitioner approached the trial Court again for transfer of the amount of demand draft into fixed deposit receipt. Vide impugned order dated 22.12.2011 Manager J&K Bank Branch Bone and Joint Hospital, Barzullah Srinagar was directed to transfer the amount of demand draft to FDR in the name of petitioner with the condition that he

shall not be entitled to withdraw the amount from the FDR or interest accruing thereon till the conclusion of the trial. Subsequently, the petitioner filed another application before learned trial Magistrate seeking release of amount of the FDR alongwith interest. The said application came to be dismissed by the learned trial Court in terms of impugned order dated 19.05.2023.

6. The petitioner has challenged the impugned orders passed by the learned trial Court on the grounds that the petitioner is neither an accused nor the amount locked in the FDR is connected with the proceeds of any offence. It has been submitted that the demand draft was seized in the course of investigation and as such release of FDR amount shall have no effect on the trial of the case, as the said amount is not connected with the commission of any offence. According to the petitioner his financial condition has worsened and he has obtained loan from J&K Bank Ltd. Therefore, he is in dire need of the money.

7. As has been already stated that the bank draft in the amount of Rs.4,00,000/- prepared from the account of Dr.Shagufta was recovered from the possession of the accused persons. In the charge sheet it is alleged that the Doctors who were to appear in the MD/MS Entrance Examination had paid huge amount through bank drafts in advance to the accused persons with the promise to make available the copies of entrance examination question papers one day prior to the commencement of entrance examination. There is material on record to show that Dr.Shagufta was one of the prospective candidates to appear in entrance

examination of MD/MS course. Therefore, the bank draft which has now been converted into an FDR and which is being sought to be released by the petitioner has the potential of being the proceeds of crime in case the offences are proved after the trial of the case. In that eventuality the amount is liable to be confiscated. So the contention of the petitioner that the proceeds of the Bank Draft are not connected with the commission of the crime is absolutely misconceived.

8. Even if the charges against the accused are dismissed by the trial Court after the conclusion of the trial, the interest of the petitioner stands protected as in terms of order dated 22.12.2011 passed by the learned trial Magistrate, the proceeds of the Bank Draft have been directed to be kept in an FDR so that the same earn interest. If ultimately no offences are proved, the petitioner would be entitled to proceeds of the FDR including the interest which may have accrued thereupon. The learned trial Court has properly balanced and safeguarded the interests of parties while passing order dated 22.12.2011.

9. For what has been discussed hereinbefore, I do not find any ground to interfere in the impugned orders passed by the learned trial Magistrate. The petition is dismissed.

(SANJAY DHAR)
JUDGE

SRINAGAR
22.07.2026
Sarveeda Nissar

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No