



2025:DHC:10321



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 21.11.2025*

+ **W.P.(CRL) 3855/2025**

JASIR BILAL WANI @ DANISHPetitioner

Through: Ms. Warisha Farasat, Ms.
Suvarna Swain and Mr.
Kaustubh Chaturvedi,
Advocates

versus

NATIONAL INVESTIGATION AGENCYRespondent

Through: Ms. Kanchan, Senior PP for
NIA with Mr. Anil Dabas PP
NIA

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

DR. SWARANA KANTA SHARMA, J. (Oral)

1. The present writ petition has been marked to this Court at about 3:25 PM, and the file has been received at around 4:00 PM.
2. The learned counsel appearing for the petitioner submits that the petitioner was arrested in connection with FIR No. RC-21/2025/NIA/DLI registered at NIA Headquarters for offences punishable under Sections 103(1), 109(1) and 61(2) of the Bharatiya Nyaya Sanhita, 2023, Sections 16 and 18 of the Unlawful Activities (Prevention) Act, 1967, and Sections 3 and 4 of the Explosive



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Substances Act, 1908. It is stated that the petitioner has been remanded to NIA's custody till 27.11.2025.

3. The learned counsel for the petitioner contends that he was compelled to file the present writ petition for enforcement of the petitioner's fundamental and statutory right to meet an advocate of his choice while in custody (Article 22 of the Constitution of India and Section 38 of the Bharatiya Nagrika Suraksha Sanhita, 2023), which according to him has been denied by the respondent-NIA. He submits that the learned Sessions Court refused to allow a legal mulaqat and also declined to pass any order on the application he had moved seeking permission for the petitioner to meet his advocate. He therefore submits that, having been left without any other remedy, the present writ petition was filed.

4. On the other hand, the learned counsel appearing for the respondent-NIA submits that the petitioner has not exhausted all the remedies available in law before approaching this Court. It is further submitted that there is no proof that any such application was filed before the learned Sessions Court, and accordingly, the writ petition deserves to be dismissed.

5. This Court has **heard** the learned counsel appearing for the petitioner as well as the respondent, and has perused the case file.

6. The record shows that the petitioner was arrested on 17.11.2025 in Srinagar, Jammu & Kashmir, after following due process of law. The petitioner was thereafter remanded to the custody of the NIA for 10 days by the learned Sessions Court on 18.11.2025.



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7. The petitioner's case, as urged before this Court, is that on 20.11.2025 his counsel had visited the NIA Headquarters for a legal mulaqat with the petitioner, however the same was denied on the ground that no order of the Sessions Court had been obtained in this regard. The learned counsel submits that he thereafter had moved an application before the learned District & Sessions Judge, Patiala House Courts, seeking permission to meet the petitioner, but the application was not taken on record. He has placed on record a true copy of the said application. He further submits that although a soft copy of the vakalatnama signed by the petitioner's second cousin was shown to the learned Sessions Judge, the same was not perused, and no order was passed either allowing or refusing the legal mulaqat. He also states that this Court should take note of the fact that the learned Sessions Judge has rather refused to pass any order on his application. Being left without an effective remedy, the petitioner has approached this Court seeking the following reliefs:

- “A. Direct the Respondent to allow the Petitioner to meet and consult the Advocate of his choice today during his custodial interrogation, and to further allow such legal mulaqaat and consultation with the Advocate of the Petitioner's choice from time to time in accordance with the applicable rules and regulations;
- B. Alternatively, direct the Sessions Court to adjudicate and decide the Petitioner's Application seeking permission to meet and consult the Advocate of his choice today”

8. In these circumstances, this Court is of the opinion that the petitioner has merely placed on record a copy of the application allegedly moved before the learned Sessions Judge without any filing



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number, and there is no order of the learned Sessions Judge either refusing to take the application on record or refusing to pass an order or declining the relief sought. In the absence of any such material, this Court cannot accept that the petitioner has exhausted all efficacious remedies available in law to him. A mere oral submission that the application was not taken on record, neither perused, or that it was orally indicated that no relief would be granted, cannot justify approaching this Court directly. In case such a plea is accepted, in every case, a person will approach the High Court with an apprehension or presumption that his application will be rejected by the Trial Court. The insistence of the learned counsel repeatedly that his application be allowed, since in case, he will approach the learned Sessions Court tomorrow and fails to get the relief, he will be able to approach this Court only on Monday causing further delay is not only meritless but rather suggests that in cases of apprehension by a party of rejection of his plea before the learned Trial Court, one can straightaway approach a higher Court. The law and procedure cannot be created to suit and satisfy a party's apprehension or presumption. An application of this nature, therefore, in this Court's opinion, ought to be decided by the learned Sessions Court at the first instance.

9. Furthermore, merely alleging that an application was moved or the case was refused to be taken up by a Sessions Judge or it was orally said that the prayer will not be allowed, cannot be a valid ground in absence of proof of the same. Moreover, in case, the argument is even taken up at its face value, if the Sessions Judge had



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refused to even look at his application, it could not have known the contents and therefore, there was no question of denying the relief orally.

10. Secondly, it is also unclear whether the *pairokar* who has signed the vakalatnama is indeed the cousin of the petitioner. The vakalatnama signed by the petitioner-accused himself is not on record.

11. Having regard to the alternative prayer made before this Court – for remanding the matter to the learned Sessions Judge for adjudication in accordance with law – this Court directs that the learned counsel for the petitioner may appear before the learned Sessions Judge along with the petitioner's *pairokar*. Upon being satisfied, on the basis of an affidavit or any other supporting document, that the said individual is indeed the petitioner's *pairokar*, the learned Sessions Judge shall take up the application moved by the petitioner's counsel for a legal mulaqat tomorrow itself and pass an appropriate order in accordance with law, tomorrow itself.

12. With these directions, the writ petition is disposed of.

13. A copy of this judgment be given *dasti* to the learned counsel for both parties.

14. The judgment be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J
NOVEMBER 21, 2025/ns