

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

Case No. Bail App No. 21/2025
CrIM No. 361/2025
CrIM No. 110/2025

Reserved on: 13.10.2025

Pronounced on: 18.10.2025

Uploaded on: 18.10.2025

Whether the operative part or
full judgment is pronounced

Sareed Ahmed Ganie

.....Petitioner(s)

Through: Mr. Mehtab Gulzar, Advocate and
Mr. Murtaza Kamaal, Advocate.

Vs

UOI and anr.

..... Respondent(s)

Through: Ms. Vishal Sharma, DSGI with
Mr. Sumant Sudan, Advocate

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

(JUDGMENT)

1. The petitioner, through the medium of present petition has invoked jurisdiction of this Court under Section 483 of BNSS for grant of bail in a case arising out of Crime No. 15/2024 dated 27.08.2024 for offences under Sections 8/21/22/29 of NDPS Act registered with NCB Zonal Unit, Jammu.

2. As per case of prosecution, on 26.08.2024 at about 1900 hours, a secret information was received by officials of NCB, Jammu from a reliable source to the effect that two persons namely Zahoor Ahmed Shah and Mohammad Abas Bhat are travelling from Jammu to Delhi in a passenger bus bearing

registration No. HR38B898 along with huge quantity of narcotic drugs and that the bus will pass from Zamindara Dhaba, Ring Road between 0500 hrs. to 900 hrs. on 27.08.2024. On the basis of this information, a team of NCB officials reached the spot and at about 0630 hrs, on 27.08.2024, bus bearing registration No. HR 38B8986 was seen coming from Zamindara Dhaba, Ring Road. The said bus was signaled to stop by NCB officials and upon questioning of the passengers, one person identified himself as Zahoor Ahmad Shah and another passenger disclosed his name as Mohammad Abas Bhat. Both persons were subjected to search and upon questioning, they disclosed that they are travelling with a cardboard box in which bag containing drugs has been kept.

3. From the possession of accused-Zahoor Ahmad Shah and Mohammad Abas Bhat, NCB officials recovered 220 bottles containing 100 ml. each of Triprolidine Hydrochloride and Codeine Phosphate Syrup, 14106 Spasmo Proxyvon Plus Capsules, 3000 tablets of Alprazolam. Besides this, four red coloured bottles filled with Codeine Syrup were also recovered. The recovered drugs were sealed in different lots on spot whereafter, statement of accused Zahoor Ahmed Shah under Section 67 of the NDPS Act was recorded. In his statement recorded under Section 67 of NDPS Act, accused Zahoor Ahmad

Shah disclosed that the seized contraband was supplied to him by Mohd. Shahbaaz at Jama Masjid Gate No. 1, Delhi on 26.08.2024 and he was about to deliver the seized contraband to Sareed Ahmad Ganie, the petitioner herein. It was further disclosed by the accused Zahoor Ahmad Shah that he along with the petitioner were about to sell the seized contraband in Anantnag. After recording the statement of Zahoor Ahmed Shah, he was subjected to arrest and thereafter, statement of accused Mohammad Abas Bhat under Section 67 of the NDPS Act was recorded. He also admitted that he is accompanying with Zahoor Ahmad Shah in connection with transportation of the seized contraband drugs. He further admitted that seized contraband drugs were supplied by Mohd. Shahbaaz. Accused Mohammad Abas Bhat was also arrested thereafter.

4. The seized contraband which was sealed in different lots was produced before the Chief Judicial Magistrate, Samba and samples were drawn from these lots which was sealed and sent to the laboratory at New Delhi for chemical analysis.

5. The petitioner-Sareed Ahmed Ganie was apprehended by NCB officials on 02.09.2024 and his statement under Section 67 of the NDPS Act was recorded. In his statement, the petitioner admitted his guilt of receiving and selling of narcotic drugs and psychotropic substances along with accused Zahoor Ahmad

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Shah. He was also subjected to arrest. Thereafter, statement of accused Mohd. Shahbaaz under Section 67 of the NDPS Act was also recorded. He also admitted his guilt of being in league with Zahoor Ahmed Shah and Mohammad Abas Bhat. Accused Mohd. Shahbaaz was arrested on 09.09.2024

6. Thereafter, five mobile phones recovered from the aforementioned accused persons were seized and sent to FSL Chandigarh for data extraction regarding payment details, chats, text messages. The report is stated to be still awaited. Upon analysis of the call details of the mobile numbers that were used by the accused persons, it was found that the accused were in constant touch with the petitioner who was using mobile cell phone No. 9596550485 which is registered in his name. It was found that all the accused were in contact with each other on 24.08.2024 at 08.35.43 in connection with illegal trafficking of drugs.

7. The investigating agency has concluded that accused Zahoor Ahmad Shah contacted accused Mohd. Shahbaaz for procurement of seized contraband and Mohammad Abas Bhat associated Zahoor Ahmad Shah for carrying the seized contraband and petitioner Sareed Ahmed Ganie contacted Zahoor Ahmad Shah for procurement of seized contraband. The investigating agency further concluded that the accused Zahoor

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Ahmad Shah and Mohammad Abas Bhat were carrying 221 bottles of codimust –T codeine based cough syrup, 14106 spasm proxyvon plus capsules and 3000 Calmpik, 0.5 mg. Alprazolam from Delhi to Anantnag and they were intercepted by team of NCB Jammu on 27.08.2024. It was also found that the petitioner is receiver of seized drugs and he has, besides violating Section 8 of the NDPS Act committed offences under Section 21, 22 and 29 of the NDPS Act.

8. After completion of the investigation, the respondent-NCB filed complaint before the learned Principal Sessions Judge, Samba (hereinafter referred to as “trial Court”) against the petitioner and co-accused Zahoor Ahmad Shah, Mohammad Abas Bhat and Mohd. Shahbaaz. Prior to filing of the complaint before the learned trial Court during the phase of investigation, the application of the petitioner for grant of bail was rejected by the trial Court vide order dated 31.12.2024.

9. The petitioner has sought bail in his favour on the grounds that the complaint has now been filed against him and there is no legally admissible material collected by the investigating agency to connect the petitioner with the alleged crime. It has been contended that the petitioner has no link with the other accused persons named in the crime and he has been implicated only on the basis of his statements recorded under Bail App No. 21/2025

Section 67 of the NDPS Act and the statement of co-accused recorded under the same provisions, which are not admissible in evidence.

10. The respondents have contested the bail application by filing their reply to the petition in which they have submitted that the petitioner is involved in offence relating to possession of commercial quantity of narcotic drugs and therefore, he does not deserve any leniency. It has been submitted that in view of the bar created under Section 37 of the NDPS Act, the petitioner cannot be enlarged on bail at this stage particularly when there is material on record to suggest that he is involved in the alleged crime.

11. I have heard learned counsel for the parties and perused the record including record of the trial Court.

12. So far as grant of bail in a non-bailable offence is concerned, the principles with regard to same are more or less settled. The factors like prima-facie or reasonable ground to believe that the accused has committed the offence, the nature and gravity of accusation, severity of the punishment in the event of conviction and danger of the accused absconding or fleeing if released on bail, character, behaviour, means, position and standing of the accused, likelihood of the offence being repeated,

reasonable apprehension of the witnesses being influenced and danger of justice being thwarted by grant of bail are required to be considered by a Court while granting bail in non-bailable offences. However, when it comes to offences under NDPS Act, if the recovery of the contraband substance falls in the commercial quantity, then besides the aforesaid factors, at the time of considering the prayer for grant of bail of the accused, the Court is also required to factor in the provisions contained in Section 37 of the NDPS Act. As per the provisions contained in the said Section, before releasing an accused on bail, the public prosecutor has to be given an opportunity to oppose the application and the Court has to be satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence and that he is not likely to commit any offence while on bail.

13. In the light of the aforesaid legal position, let us now advert to the facts of the present case. Allegation against the petitioner is that he was acting in conspiracy with the co-accused, from whom commercial quantity of contraband drugs has been recovered by NCB Officials on 27.08.2024, when accused Zahoor Ahmad Shah and Mohammad Abas Bhat were travelling in a bus from Delhi towards Jammu. It is case of the prosecution that this consignment of drug was to be delivered to the petitioner. To

connect the accused from whose possession the consignment of contraband drugs has been recovered with the petitioner, the prosecution relies upon statement of co-accused Zahoor Ahmad Shah recorded under Section 67 of the NDPS Act and the statement of the petitioner recorded under the same provision by the officials of NCB wherein, both of these accused have admitted that the seized contraband drugs were meant to be delivered to the petitioner. The other circumstance on which the prosecution is relying upon is Call Data Records of the accused, according to which, the petitioner was in constant touch with the co-accused particularly on 24.08.2024, a few days prior to the recovery of the consignment of contraband drugs.

14. The issue as to whether a statement made by an accused before NCB officials under Section 67 of the NDPS Act is admissible in evidence is no longer *res integra*. The Supreme Court has in a three Judge Bench judgment delivered in the case of **Tofan Singh Vs. State of Tamil Nadu; (2021) 4 SCC 1** held that the confessional statement recorded under Section 67 of the NDPS Act by NCB officials will remain inadmissible in the trial of an offence under the NDPS Act. Therefore, any statement made by accused Zahoor Ahmad Shah under Section 67 of the NDPS Act implicating the petitioner or any statement made by the petitioner implicating himself before the officials of NCB in terms

of Section 67 of the NDPS Act is not admissible in evidence. It has been clearly held by the Supreme Court that the confessional statement made by the accused/co-accused before the NCB official is inadmissible evidence. Thus, the statements of the petitioner and accused Zahoor Ahmed Shah cannot be considered while determining the issue relating to involvement of the petitioner in the alleged crime.

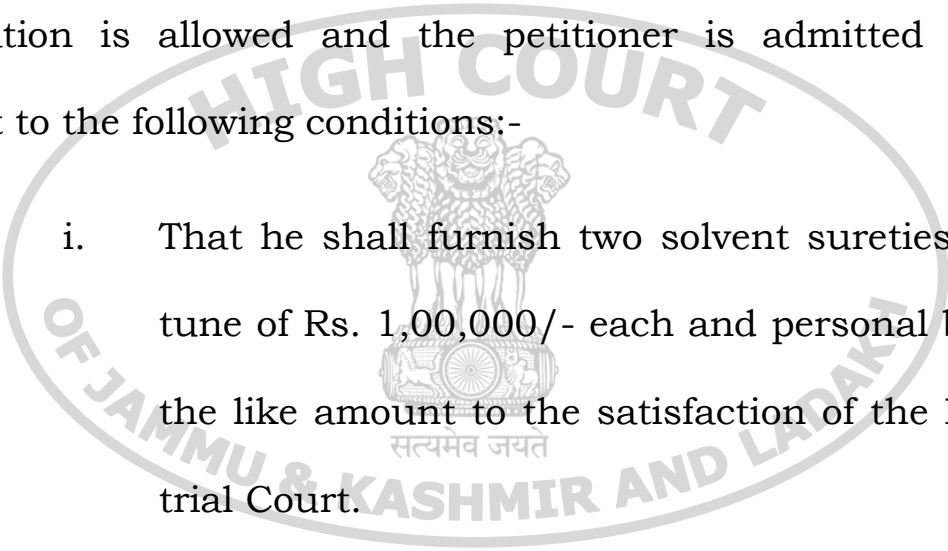
15. The only material that connects the petitioner to the alleged crime that is left is the CDR which has been collected by the investigating agency during the investigation of the case. As per analysis of the CDR, it appears that the petitioner was in touch with the co-accused during the relevant period. The question arises as to whether the same would be sufficient to prima facie hold that the petitioner guilty of having committed the offence for which he has been booked. In the opinion of this Court, CDR details showing contact between the petitioner and co-accused, without there being any voice recording relating to conversation between them, may not be sufficient to convict the petitioner for the offence for which he has been booked.

16. In the face of aforesaid nature of material on record against the petitioner, it can safely be stated that there are reasonable grounds to believe that the petitioner is not guilty of

offences under Sections 8/21/22 & 29 of the NDPS Act. Thus, he has been able to carve out a prima facie case for grant of bail.

17. The respondent have not placed on record any material to show that the petitioner has been involved in similar offences in the previous past. There is nothing on record to show that if the petitioner is enlarged on bail, he is likely to commit similar offences.

18. In view of the aforesaid discussion, the instant bail application is allowed and the petitioner is admitted to bail subject to the following conditions:-

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- i. That he shall furnish two solvent sureties to the tune of Rs. 1,00,000/- each and personal bond of the like amount to the satisfaction of the learned trial Court.
 - ii. That he shall not make any attempt to contact or influence any of the prosecution witnesses during trial either physically or through any other mode.
 - iii. That he shall appear before the learned trial Court on each date of hearing.
 - iv. That he shall not indulge in any similar offence.

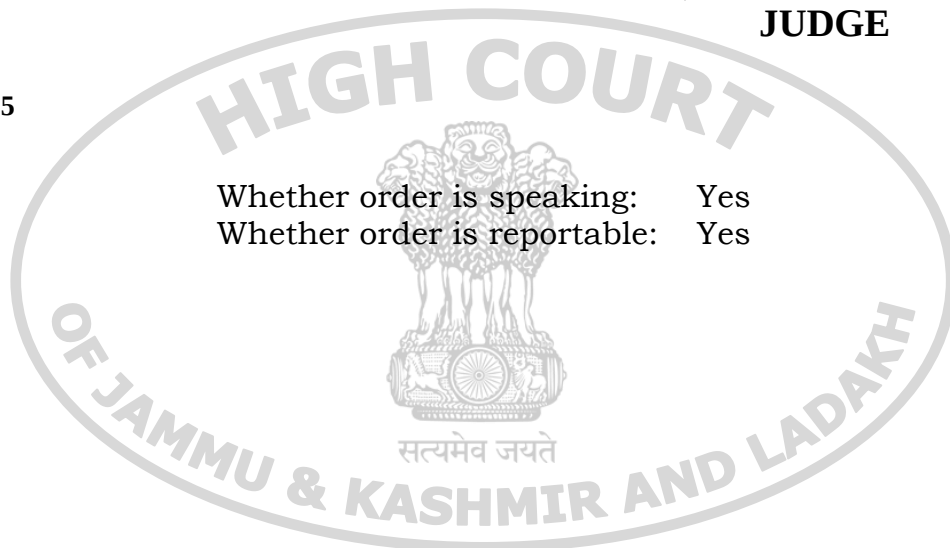
v. That he shall surrender his passport, if any, before the learned trial Court and shall not leave limits of UT of J&K without prior permission of the learned trial Court.

19. Anything said in the order shall not be taken as an expression of opinion on merits of the case.

20. The petition stands ***disposed of***.

(SANJAY DHAR)
JUDGE

JAMMU
18.10.2025
Tarun/PS



Whether order is speaking: Yes
Whether order is reportable: Yes