

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

Case:- Bail App No. 170/2023

**Ishafaq Ahmed, S/o Abdul Rahman,
R/o Near Masjid Sharif Gangipora, District Anantnag**

.....Petitioner

Through: Mr. Ravinder Sharma, Advocate

Vs

UT of J&K through Incharge Police Station, Samba

..... Respondent

Through: None

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

**ORDER
27.12.2023**

Heard learned counsel for the petitioner.

01. Considering the nature of the purpose for which the petitioner is seeking a short duration bail for enabling him to attend his ailing mother, this petition is being taken up for consideration and disposal.

02. The petitioner came to be booked in FIR no. 0363/2021 registered with the Police Station Samba for alleged commission of offences under section 8/20/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (**“NDPS Act”** in short) which resulted in presentation of a final police report/challan report no. 99/2022 dated 04.03.2022 for commission of offences under section 8/20/25/29 of the NDPS Act, the trial of which is going on before

the court of Additional Sessions Judge, Samba. The petitioner is one of the three accused persons undergoing trial in the said criminal case. The petitioner is suffering continuing custody reckoning from the arrest in reference to the FIR no. 0363/2021.

03. The petitioner approached the trial court of Additional Sessions Judge, Samba with a bail application seeking short term bail of one month from 30.04.2023 to 30.05.2023 for attending his aged mother by citing the medical condition attending her requiring the petitioner to be with her, as his father is also an ailing person and not able to attend the petitioner's mother in the hour of need.

04. This application of the petitioner came to be rejected by the Additional Sessions Judge, Samba in terms of an order dated 19.05.2023 with a parting request to the Secretary DLSA, Anantnag to depute some para legal volunteer to help the mother of the petitioner for proper medical check-up, if there is nobody else to take care of her for medical treatment.

05. The respondent is objecting, to the bail application filed by the petitioner before this Court stating reason that the petitioner is involved in a case of serious ramifications relatable to narcotic drugs and the alleged quantity of contraband seized from the accused person is 20 kg of charas recovered from the truck being rode by accused persons.

06. Learned counsel for the petitioner pleads that given the fact that the petitioner as well as his parents are the residents of district Anantnag, Kashmir and keeping in view the onset of the harsh winter season the parents of the petitioner, in particular his mother, are going to suffer neglect in the event of non-availability of any other male member in the family, as the petitioner does not have any brother, whereas his sisters are already married and settled in their respective matrimonial homes.

07. This Court is inclined to address the plea of the petitioner that his ailing mother is in need of his care, even though the offence for which the petitioner has come to suffer arrest and trial is non-bailable one and was not able to persuade the trial court to grant him bail for the said purpose. The petitioner has annexed the medical record attending the medical condition of his mother – Mst. Zaina Banoo.

08. This Court, therefore, directs grant two months duration bail reckoning from 01.01.2024 to expire on 28.02.2024 in favour of the petitioner subject to the terms and conditions as herein next set out:-

- a. The petitioner shall furnish two sureties for an amount of Rs. 2(two) lac each along with the petitioner's personal bond of Rs. 2(two) lac to the court of Additional Sessions Judge, Samba. The full particulars

of the two sureties to be provided in the bonds for the sake of confirming their respective credentials. The Additional Sessions Judge, Samba shall be well within his discretion to insist for furnishing of Aadhar card identity of the sureties;

- b. The petitioner shall, upon release from the custody, report to SHO Police Station within which his village Gangipora in district Anantnag falls and furnish his mobile number to the SHO concerned;
- c. The petitioner shall not default in attending the proceedings in the case during bail period before the court of Additional Sessions Judge, Samba;
- d. The petitioner shall not leave the territory of UT of Jammu & Kashmir during the bail duration without first seeking permission of the Additional Sessions Judge, Samba;
- e. Immediately upon the expiry of two months bail period, the petitioner shall surrender himself on 01.03.2024 before the Additional Sessions Judge, Samba, who shall then direct the petitioner's custody back to the District Jail concerned.
- f. The petitioner shall not, directly or indirectly, influence or approach the prosecution witnesses to be examined in the case.

09. Copy of this order be sent to the Court of Additional Sessions Judge, Samba for reference and record sake and for

issuance of docket to the Superintendent of concerned Jail for the release of the petitioner.

10. Application is, accordingly, ***disposed of***.

(RAHUL BHARTI)
JUDGE

JAMMU
27.12.2023
Muneesh

Whether the order is speaking : Yes / No

Whether the order is reportable : Yes / No

