

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

Reserved on: 06.10.2025

Pronounced on: 18.10.2025

Uploaded on 18.10.2025

Whether the operative part or
full judgment is pronounced

Case No.:- Bail App No. 36/2025
CrIM No. 236/2025

Mohd. Maqbool

.....Petitioner(s)

Through: Mr. Sunil Sethi, Sr. Advocate with
Mr. Parimoksh Seth, Advocate &
Mr. Vishal Mahajan, Advocate.

Vs

Narcotics Control Bureau
Zonal Unit, Jammu & anr

..... Respondent(s)

Through: Mr. Vishal Sharma, DSGI with
Mr. Eishaan Dadhichi, CGSC

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

JUDGMENT

1. The petitioner has invoked jurisdiction of this Court under Section 483 of Bhartiya Nagarik Suraksha Sanhita (BNSS), 2023 for grant of bail in a case arising out of a complaint (NCB Crime No. 02 of 2024 dated 14.01.2024) filed by respondent No. 1 against the petitioner and co-accused for offences under Sections 8, 21, 22, 26, 27-A, 29 & 38 of the NDPS Act, which is stated to

be pending before the Court of learned Special Judge, NDPS Cases, Jammu (hereinafter to be referred to as **“Trial Court”**).

2. As per case of the complainant-respondent No. 1, on 14.01.2024 at about 0800 hrs, a secret information was received by Sh. Koushal Kumar, Intelligence Officer, NCB, Jammu from a reliable source that co-accused, namely, Rayees Ahmed Bhat is coming from New Delhi in a video coach bus bearing registration No. NL-02 B0027 with a consignment of Codeine based cough syrup and then he is reaching inter-state bus stand, Narwal, Jammu at about 1100 hrs to 1200 hrs. It was also informed that the consignment of Codeine based cough syrup has been kept in a greenish trolley bag. The information was reduced into writing whereafter a team of NCB officials proceeded to inter-state bus stand, Narwal.
3. At about 1120 hrs, the bus reached Bus stand, Narwal and the passengers of the said bus were questioned. Co-accused Rayees Ahmed Bhat was asked to open his greenish coloured trolley bag and upon opening it, a black coloured bag, which was kept inside the trolley bag, was found. Two plastic bottles containing some liquid were recovered which the said accused confirmed to be Codeine. Another bag, containing 50 bottles of Triprolidine Hydrochloride Codeine Phosphate Cocrex cough syrup (100 ml each) was also recovered. Besides this, 1000 tablets of Tapentadol (100 mg) were also recovered. The recovered articles were sealed and seized in different lots.

4. The statement of accused-Rayees Ahmed Bhat was recorded on spot in which he admitted his guilt with regard to illicit trafficking of 2.280 kg of Codeine liquid, 50 bottles of Codeine based cough syrup and 1000 tablets of Tapentadol (100 mg). He further disclosed that accused-Pradeep Singh Sodhi was also with him from Srinagar to Jammu and Jammu to Delhi via Ludhiana. He further stated that he went to attend hearing of a case in Ludhiana court on 12.01.2024 and thereafter he went to Delhi for receiving the seized drugs from one Mohd. Shabir, the co-accused. Thereafter accused Rayees Ahmed Bhat was put under arrest.
5. On 16.01.2024, samples of the recovered contraband drugs were drawn in presence of Judicial Magistrate 1st Class (Sub Judge), Jammu and these samples were sent to the laboratory for chemical analysis on 18.01.2024. As per the test report, the samples were found to contain Codeine Phosphate.
6. The team of NCB officials proceeded to conduct search of the premises owned by co-accused Mohd. Shabir. Upon conducting the search of his house, 117 bottles (100 ml) of cocrex codeine based cough syrup were recovered from a brown coloured carton box. From further search of the almirah, a box of Alprazolam IP 0.50 mg 30 strips (total 300 tablets) was also recovered. Another box of Alprazolam 60 strips (total 600 tablets) was recovered from the house. It is further alleged that Acetaminophen Dicylomine Hydrochloride and Tramadol Hydrochloride capsules

7 strips (total 56 capsules) were also found. Further Lorazepam tablets 7 strips (total 210 tablets), 570 tablets of Clobazam Tablets and 19 bottles (100 ml each) of Cocrex cough syrup were recovered from the house of accused Mohd. Shabir.

7. It has been alleged that during the search of house of co-accused-Mohd. Shabir, petitioner Mohd. Maqbool knocked the door of his house and entered there. He was carrying 150 bottles (100 ml each) of Cocrex Codeine based cough syrup for delivering it to Mohd. Shabir and he could not produce any bill/legal document in respect of these drugs. During the search of premises of accused-Mohd. Shabir, cash amount of Rs. 15,03,750/- was also recovered. The recovered drugs were seized and sealed in different lots and the cash was also seized in a separate lot.
8. The statement of the accused Mohd. Shabir under Section 67 of NDPS Act was recorded in which he disclosed that the drugs recovered from his possession were supplied to him by the petitioner Mohd. Maqbool which he had taken from the owner of M/s N.K. Pharmaceutical, namely, accused Niket Kansal. He also disclosed that accused Pradeep Singh Sodhi had demanded Rs. 30,000/- from him and he paid an amount of Rs. 20,000/- to him for the purpose of protecting him from registration of NDPS case against him.
9. Statement of the petitioner-Mohd. Maqbool under Section 67 of the NDPS Act was also recorded in which he admitted his role in

illicit trafficking of seized drugs and he further disclosed that he is an old worker of Niket Kansal and the seized drugs were supplied by the said accused, which he had to deliver to accused Mohd. Shabir.

10. After conducting the aforesaid proceedings, samples in respect of the recovered drugs were drawn in presence of Judicial Magistrate 1st Class (Sub Judge), Jammu on 25.01.2024. The same were sent to laboratory for chemical analysis.
11. It has been further alleged in the complaint that call records of cell phones of all the accused were obtained and analyzed and it was found that they were in touch with each other. With regard to the petitioner, it has been submitted that he had been in touch with accused Rayees Ahmed Bhat on his mobile ten times from 09.01.2024 to 13.01.2024.
12. On 01.06.2024, statement of accused-Pradeep Singh Sodhi under Section 67 of the NDPS Act was recorded in which he disclosed that he is companion of accused Rayees Ahmed Bhat and that they had purchased the drugs from accused Mohd. Shabir on 13.01.2024. It was also found that accused Niket Kansal is the kingpin of supply of drugs and that investigation against him in many cases is still going on.
13. Lastly, it has been submitted that commercial quantity of drugs comprising 317 bottles of Codeine based cough syrup, 2.280 kg of Codeine liquid, 1000 tablets of Tepentadol, 900 tablets of

Alprazolam, 56 capsules of Tamadol, 210 tables of Lorazepam, 570 tables of Clobazam, have been recovered in the present case, as such offences under Sections 8, 8A, 21, 25, 26, 27 A, 29, 38 and 80 of the NDPS Act are established against the petitioner and the co-accused.

14. It seems that the learned trial court vide its order dated 13.12.2024 has framed charges for offences under Sections 8, 8A, 21 (c), 22 and 29 of the NDPS Act against the co-accused Rayees Ahmed Bhat, for offences under Sections 8, 8-A, 21 (c), 27-A and 29 of the NDPS Act against accused Mohd. Shabir and for offences under Sections 8, 8-A, 21 (c), 22, 27-A and 29 of the NDPS Act against petitioner Mohd. Maqbool. Accused Pradeep Singh Sodhi, Niket Kansal and Sumesh Sareen have been discharged. It appears that learned trial court vide its order dated 17.01.2025 has dismissed the bail application of the petitioner.

15. The petitioner has sought bail in the instant case on the grounds that there are no reasonable grounds for believing that he is guilty of the offences for which he has been charged. It has been further contended that the petitioner is in jail for the last more than one year and there is no immediate prospect of conclusion of the trial, therefore, he deserves the concession of bail. It has been contended that as per report of the chemical analyst, the percentage of Codeine in the drugs recovered from the possession of the petitioner is less than 2.5 percent, therefore, it

does not fall within the definition of the 'manufactured drugs' as contained in Section 2 (xi) of NDPS Act. It is being contended that the investigating agency has not sent samples of all the bottles of cocrex cough syrup, which are alleged to have been recovered from the petitioner, as such, it cannot be stated that the petitioner is involved in a case relating to possession of commercial quantity of manufactured drugs.

16. The respondents have contested the bail application by contending that the petitioner has been found to be in possession of commercial quantity of narcotic drugs, as such he does not deserve any leniency. It has been further contended that trial of the case is at crucial stage and if the petitioner is released on bail, there is every possibility of the evidence being tampered. It has been contended that statutory embargo contained in Section 37 of the NDPS Act is attracted to the present case.

17. I have heard learned counsel for the parties and perused record of the case.

18. If we have a look at the record of the case, the petitioner has been charged for offences under Sections 8, 8-A, 21 (c), 22, 27-A and 29 of the NDPS Act. The order of charge is not under challenge before this Court. So we have to proceed on the basis that the petitioner is prima facie found to have been involved in the aforesaid offences. As per material on record, the petitioner is alleged to have been caught red handed while handing over

the consignment of 150 bottles of cocrex codeine based cough syrup to co-accused Mohd. Shabir from whose possession 117 bottles of cocrex codeine based cough syrup, 300 tablets of Alprazolam, 600 tablets of Alprazolam, 56 Tramadol Hydrochloride capsules, 210 Lorazepam tablets, 570 tables of Clobazam and 19 bottles of cocrex cough syrup with currency notes amounting to Rs. 15,03,75/- were recovered.

19. There is material on record to show that the petitioner and co-accused Rayees Ahmed Bhat were acting in concert and in conspiracy with each other and for this reason, Section 29 of the NDPS Act, has been invoked and even the charge for the said offence has also been framed against the petitioner. Therefore, whatever quantity of the contraband drugs has been recovered in the present case from the petitioner or from co-accused Rayees Ahmed Bhat, it has to be assumed that the same has been recovered from all the accused persons. Once it is assumed so, the question whether the quantity of Codeine Phosphate in the drug recovered from the possession of the petitioner is less than 2.5 percent so as to bring it out of the purview of the definition of 'manufactured drugs' pales into insignificance. Not only Codeine Phosphate but even other drugs have been recovered from the co-accused. When the quantity of those drugs is taken together, the same clearly falls within the parameters of commercial quantity. Besides this, the petitioner has also been charged with offence under Section 27-A of the NDPS Act, which relates to

offence of financing illicit trafficking and harbouring of offenders. The bar contained in Section 37 of the NDPS Act is, therefore, attracted to the case of the petitioner.

20. In the aforesaid circumstances, going into the question as to whether the percentage of Codeine Phosphate found in the drugs seized from the petitioner, would take out the said drugs from the purview of definition of 'manufactured drugs' would be an academic exercise, which this court would not like to undertake in the present case. At this stage, even after excluding the recovery of the drugs effected from the possession of the petitioner, he is deemed to be in possession of other contraband drugs, which have been recovered from the possession of other accused as Section 29 of the NDPS Act has been invoked against him. Thus, petitioner is involved in a case relating to possession of commercial quantity of contraband drugs besides financing illicit trade of drugs. Section 37 of NDPS Act, which imposes conditions for grant of bail in offences involving commercial quantity of contraband drugs and in offences relating to financing of illicit traffic of drugs is attracted to the present case. Bail in such cases cannot be granted unless the Public Prosecutor has been given an opportunity to oppose the application and there are reasonable grounds for believing that the applicant is not guilty of such offences and he is not likely to commit any offence while on bail.

21. In the present case, as already stated, there is enough material on record to show that the petitioner is involved in an offence relating to possession of commercial quantity of contraband drugs and besides this, he is also stated to be involved in offence under Section 27-A of the NDPS Act. Thus, it cannot be stated that there are reasonable grounds for believing that he is not guilty of these offences. The petitioner has, therefore, failed to carve out a case for grant of bail in his favour. Apart from this, trial in the case has just begun and at this stage merely because the petitioner has been incarcerated for the last more than one year, bail cannot be granted in his favour.

22. For the foregoing reasons, I do not find any merit in this petition. The same is, accordingly, dismissed. However, the learned trial court is directed to expedite the trial of the main case.

(SANJAY DHAR)
JUDGE

JAMMU
18.10.2025
Naresh/Secy.

Whether order is speaking: Yes

Whether order is reportable: Yes