

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

Bail App No. 76/2025

*Reserved on: 25.11.2025
Pronounced on: 28.11.2025
Uploaded on: 28.11.2025*

*Whether the operative part or full judgment is
pronounced-**Full Judgment***

Mohd. Pervaiz

.....Appellant(s)/Petitioner(s)

Through: Mr. A. R. Khan, Advocate.
Vs

U.T of J&K & Anr.

..... Respondent(s)

Through: Mr. Bhanu Jasrotia, GA

**CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE
ORDER**

Bail App No. 76/2025

- 01.** Petitioner, through the medium of this petition, seeks grant of bail in a case registered at Police Station Sundarbani vide FIR No. 82/2018, for commission of offences punishable under Sections 8, 21, 22 and 29 of NDPS Act.
- 02.** Brief facts of the case are that on 29.07.2018, at about 20:15 hrs, a docket was produced at P/S Sunderbani by Sgct. Ashok Kumar; stating therein that a sky blue colour Maruti 800 car with one driver-Rahul Sharma and two other persons namely Mohit Baba and Parvaiz Ahmed, was stopped for checking at ITI naka Sunderbani. During search of the persons, about 08 grams Brown Sugar like substance wrapped in white polythene was

allegedly recovered from the applicant-Parvaiz Ahmed. Also, about 05 grams Brown Sugar like substance was recovered from the two remaining persons. On the basis of the aforesaid, a case FIR no. 82/2018 U/Ss 8/21/22/29 NDPS got registered at Police Station Sundarbani and the investigation commenced.

- 03.** During investigation, I/O visited the spot, weighed the weight of Heroin like substances recovered from the accused, sealed in small packets and sent the sample packets to FSL for chemical analysis. The FSL report confirmed the presence of Heroin like substance in the packets which were sent for chemical analysis.
- 04.** It is the case of the petitioner that after being aggrieved of the arrest of the applicant in connection with FIR No.82/2018 U/Ss 8/21/22/29 NDPS Act, he preferred a bail application and was accordingly admitted to bail on 13.03.2019. Due to COVID-19 restrictions as he could not cause his appearance before the Trial court, as such, the bail granted to him was cancelled by the trial court on 24.10.2019; that applicant on 27.09.2023 was detained under PIT NDPS Act in connection with FIR No. 182/2019 of P/S Bishnah, FIR No.37/2020 of P/S Gursai, FIR No. 96/2020 of P/S Surankote, FIR No. 195/2021 of P/S Thannamandi, FIR No. 163/2022 of P/S Surankote and FIR No. 18/2018 of P/S Bus Stand, Jammu.
- 05.** It is further pleaded that the applicant after his release filed fresh application for grant of bail before the Court of Ld. Principal Sessions

Judge, Rajouri in FIR No. 82/2019 of P/S Sunderbani on 31.12.2024, which came to be rejected by the court on 16.01.2025.

06. Aggrieved of the decline of bail by the trial court, the present bail application is filed before this court on the ground that petitioner remained behind bars in connection with other FIRs, however, the bail granted to the application in FIR No. 82/2018 was cancelled on the ground that the applicant had absconded the proceedings and has thus violated the conditions of the bail.
07. Heard and considered.
08. In the objections, xerox copy of which is available on record, as also, learned counsel for the respondents has opposed the grant of bail asserting therein that the petitioner was involved in a case of NDPS, which has serious ramifications, which is being used in the present times to sustain the ecosystem of the narco-terrorism in the region, besides, spoiling the young generations by making them addicts. Learned State Counsel further argued that all the accused including the petitioner had been found involved in purchasing the narcotics from border areas of Rajouri and Poonch and selling the same in Jammu; that the petitioner had contravened the conditions of the bail earlier granted in his favour, as such, the Trial Court had rightly rejected his application for grant of bail as the petitioner was found to have been involved in many other cases for which he had also undergone preventive detention under PIT NDPS.

- 09.** The petitioner, from whom 08 grams of Heroin (Morphine) had been recovered which falls within intermediate quantity, had been admitted to bail vide order dated 13.03.2019 by the court of Principal Sessions Judge, Rajouri. However, he was alleged to have absconded from the proceedings thereafter and as a result, his bail was cancelled vide order dated 24.10.2019 by the Court of Principal Sessions Judge, Rajouri.
- 10.** Meanwhile, the petitioner was detained under Preventive Detention and on expiry of the period of detention, as stated by the learned counsel for the petitioner, a bail application was moved on his behalf, which was rejected vide order dated 16.01.2025. As there is no statutory bar for grant of bail in favour of the petitioner from whom just intermediate quantity of Hereoin was recovered and his co-accused were also on bail and that his bail was cancelled on the ground that he has absconded from the proceedings, which according to the learned counsel for the petitioner, was due to COVID epidemic, and that the fresh bail application was rejected by the Trial court only on the ground that the petitioner was a repeated offender facing charges under the provisions of the NDPS Act.
- 11.** There is no statutory bar to the grant of bail in favour of the petitioner from whom intermediate quantity of the contraband had been recovered. Admittedly, the petitioner has not been convicted in all the cases so far. The petitioner, who had already been arrested, was admitted to bail which was cancelled later and his fresh bail application was rejected and that he

had suffered preventive detention for the period of one year, all the factors which weigh with this court to consider the grant of bail in his favour.

12. In this view of the matter, the bail application is allowed and the petitioner is ordered to be admitted to bail subject to conditions to the satisfaction of the Trial Court.
13. The bail application is, '*disposed of*' along with connected application(s), if any.

(M A CHOWDHARY)
JUDGE

Jammu
28.11.2025
Raj Kumar

