



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

Bail App No. 163/2025

Reserved on: 30.09.2025

Pronounced on: 10.10.2025

Uploaded on: 10.10.2025

Ravinder Singh

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

Through: Mr. Jasbir Singh Jasrotia, Advocate.

vs

Union of India

..... Respondent(s)

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

Coram: HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

JUDGMENT

01. The applicant, under-trial in case titled “*NCB v. Gurjit Singh and Ors.*” for offences under Sections 8/21/29/60 NDPS Act, in the Court of learned Special Judge (NDPS Cases), Jammu, [“the trial Court”] has approached this Court for his enlargement, after his plea for a similar relief came to be declined by the trial court.

02. An overview of the background facts is that on 06.08.2018, SHO, Police Station Bahu Fort, Jammu, lodged a written complaint with the respondent-NCB, Jammu, stating *inter alia* that an information, regarding transportation of a narcotics consignment, in a truck bearing Registration No. JK02AD-3965, had been received and made a request to depute a team to initiate legal action. The respondent-NCB constituted a team, and the said team, along with police officials of Police Station Bahu Fort, laid a naka at Rajeev Nagar Chowk, Narwal Bypass, Jammu. At around 1300 hours, the aforesaid truck, on its way from Kashmir to Jammu, came to be intercepted. The driver and conductor revealed their respective identities as Gurjit Singh and Ravi Kumar and disclosed that heroin

was concealed in a false cavity of the cabin on the backside of the truck, consequent whereupon 51 packets of heroin, weighing 50.300 kgs (without packing material), came to be recovered and seized and both of them came to be arrested. During investigation, the driver, accused Gurjit Singh, in his statement under Section 67 NDPS Act, revealed that transaction of the contraband was being carried out on the instructions of the applicant accused Ravinder Singh, lodged in Central Jail, Kot Bhalwal, Jammu.

03. It surfaced during investigation that accused Gurjit Singh was in constant touch with the applicant-accused, who frequently met him in the jail on 17.05.2018, 25.05.2018, 02.06.2018, 23.06.2018 and 12.07.2018, with respect to which the investigating agency collected evidence from the jail authorities and obtained Call Detail Records (CDRs) of the mobile phones used by accused Gurjit Singh and the applicant, reflecting the location of the mobile at Central Jail, Kot Bhalwal, Jammu, where applicant, at the relevant time was lodged. According to the investigating agency, this clearly established that applicant was using mobile phone in the jail to give instructions to accused Gurjit Singh regarding the transaction of narcotics in question. The investigation culminated in the presentation of a complaint, in the trial court, against all the accused persons, including the applicant.

04. Pertinently, while accused Gurjit Singh (driver) and accused Ravi Kumar (conductor) of the truck came to be charged, the applicant came to be discharged by the trial court vide order dated 03.05.2019, on the ground that apart from the statements of co-accused Gurjit Singh and Ravi Kumar, recorded during investigation, there was no other material suggesting the involvement of the applicant in the occurrence. This order came to be assailed by the respondent, and

this Court, vide order dated 03.07.2024, set-aside the said order, directed the trial court to frame charge against the applicant and proceed with the trial in accordance with law.

05. A perusal of the record reveals that pursuant to the aforesaid order dated 03.07.2024, applicant came to be charged by the trial court on 10.01.2025, whereby he pleaded innocence and claimed trial. Later, he came to be arrested by the respondent-NCB on 03.04.2025.

06. After his discharge order came to be quashed by this Court, the applicant preferred an application for bail in the trial Court and learned trial Court, vide order dated 16.05.2025, dismissed the application primarily on the ground of gravity of the charge.

07. The applicant is aggrieved of the aforesaid order *inter alia* on the ground that, after his discharge order came to be set aside by this Court, his custody was never sought by the respondent-NCB. It is contention of the applicant that he voluntarily surrendered before the trial Court and made a statement that he did not wish to cross-examine prosecution witnesses No. 2, 4, 7, 8 & 9, those were already examined by the trial Court. According to the applicant, the material witnesses already examined by the prosecution have not stated anything adverse against him and since trial of the case is at the concluding stage and he was implicated only on the basis of statements of co-accused, under Section 67 NDPS Act, while they were in custody, he is entitled to be released on bail.

08. The plea has been opposed on the other side by the respondent on the ground that since commercial quantity of contraband has been recovered from the conscious possession of accused persons, which was being transported on the

instructions of the applicant, Section 37 of the NDPS Act is attracted, and applicant is not entitled to be released on bail.

09. Having heard learned counsels for the parties and perused the record, I have given my thoughtful consideration to the facts and circumstances attending the case and the legal position governing the field.

10. The applicant came to be implicated, in the present case, solely on the basis of statements made by co-accused Gurjit Singh, driver of the truck and Ravi Kumar, conductor of the truck, during investigation, in terms of Section 67 NDPS Act, while they were in custody.

11. A three Judge Bench of Hon'ble Supreme Court, in **Tofan Singh Vs. State of Tamil Nadu; (2021) 4 SCC 1**, has held that since the officers vested with the power under Section 53 of NDPS Act are "Police Officers", any confessional statement recorded by them under Section 67 NDPS Act will remain inadmissible under Section 25 of the Evidence Act and cannot be taken into consideration to convict an accused under the NDPS Act.

Relevant excerpt of the judgement, reads as below:

"158.1. That the officers who are invested with powers under Section 53 of the NDPS Act are "police officers" within the meaning of Section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provision of Section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act.

158.2 That a statement recorded under Section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act."

12. The prosecution in the present case, seeks to rely upon the CDRs, pertaining to the applicant and co-accused to establish that all the accused persons

were in regular contact with each other, during the course of occurrence and that they conspired with each other for the transportation and supply of the contraband in question.

13. Hon'ble Supreme Court in **State by (NCB) Bengaluru vs. Pallulabid Ahmad Arimutta and Anr.; 2022 (2) Supreme 409** though ruled that CDR details of an accused is an aspect that is to be examined during the trial but refused to cancel bail of the respondents-accused, on the ground that contraband was not recovered from their conscious possession.

Relevant observation of Hon'ble Supreme Court captured in para 10 of the judgment reads as below:

10. "It has been held in clear terms in *Tofan Singh vs. State of Tamil Nadu*, (2021) 4 SCC 1, that a confessional statement recorded under Section 67 of the NDPS Act will remain inadmissible in the trial of an offence under the NDPS Act. In the teeth of the aforesaid decision, the arrests made by the petitioner-NCB, on the basis of the confession/voluntary statements of the respondents or the co-accused under Section 67 of the NDPS Act, cannot form the basis for overturning the impugned orders releasing them on bail. The CDR details of some of the accused or the allegations of tempering of evidence on the part of one of the respondents is an aspect that will be examined at the stage of trial. For the aforesaid reason, this Court is not inclined to interfere in the orders dated 16th September, 2019, 14th January, 2020, 16 January, 2020, 19th December, 2019 and 20th January, 2020 passed in SLP (Crl.) No@ Dairy No. 22702/2020, SLP (Crl.) No. 1454/2021, SLP (Crl.) No. 1465/2021, SLP (Crl.) No. 1773- 74/2021 and SLP (Crl.) No. 2080/2021 respectively. The impugned orders are, accordingly, upheld and the Special Leave Petitions filed by the petitioner-NCB seeking cancellation of bail to the respective respondents, are dismissed as meritless.

14. If the present case is approached with the aforesaid principal of law, the admitted position of fact on record is that contraband in question came to be recovered from a specially designed cavity in the cabin of the truck, which at the relevant time, was being driven by accused Gurjit Singh, while co-accused Ravi Kumar was conductor of the truck. Accused Gurjit Singh, driver and Ravi Kumar,

conductor of the truck, while in custody, made a confession under Section 67 NDPS Act, and revealed to the investigating officer that transaction of the contraband in question was being carried out by them on the instructions of the applicant/accused, Ravinder Singh, lodged in Central Jail, Kot Bhalwal, Jammu. It is, thus clear that contraband in question has not been recovered from the conscious possession of the applicant, who at the relevant time was lodged in Central Jail, Kot Bhalwal, Jammu. The applicant came to be implicated, solely on the basis of aforesaid confessional statements of the co-accused-the driver and conductor of the truck, while they were in custody. The prosecution seeks to rely upon CDRs of the mobile phones of accused Gurjit Singh and the applicant, to establish that location of the mobile, at the relevant time, was Central Jail, Kot Bhalwal, Jammu, where applicant was lodged. The CDR details, as held by Hon'ble Supreme Court in **Pallulabid Ahmad Arimutta** (supra), is an aspect to be examined during the trial only. However, since contraband has not been recovered from the conscious possession of the applicant, he is entitled to be released on bail.

15. Having regard to the aforesaid, the present application is allowed and applicant is directed to be released on bail on his furnishing a surety bond, in the amount of Rs. 1.00 lac, to the satisfaction of learned trial Court and a bond of personal re-cognizance of the like amount to the satisfaction of the Superintendent of the concerned jail, subject, however, to the following conditions that:-

- (i) he is not involved in any other offence of the like nature;
- (ii) he shall not jump over bail and make an attempt to tamper with the prosecution evidence or coerce the prosecution witnesses.

(iii) he shall not leave the territorial jurisdiction without prior permission of the trial Court; and

(iv) he shall appear in the trial Court, without fail on each and every date of hearing.

16. Violation of any of the aforesaid conditions shall entail in the forfeiture of bail bonds.

17. It is made clear, that nothing observed in this judgment shall be construed as an expression of opinion on the merits of the case.

18. Disposed of.

(Rajesh Sekhri)
Judge

Jammu
10.10.2025
Sushant

Whether the judgment is speaking? Yes
Whether the judgment is reportable? Yes