

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

Case No.: -Bail App No. 169/2025

c/w

Crl R No. 13/2025

Date of pronouncement: 14.10.2025

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Bail App No. 169/2025

Saurav Sudan, aged 34 years,
S/O Shri Mahesh Kumar,
R/O Indira Nagar, Miran Saheb
District Jammu
Presently lodged in District Jail,
Kathua

Through his brother
Sumit Sudan, aged 40 years,
S/O Shri Mahesh Kumar,
R/O Indira Nagar, Miran Saheb

...Petitioner(s)

Through: - Mr. Farhan Mirza, Advocate

V/s

1. Union Territory of Jammu & Kashmir through SHO,
Police Station, Ramgarh
2. Superintendent,
District Jail, Kathua

...Respondent(s)

Through: - Mr. Vishal Bharti, Dy.AG

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CORAM: HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE
ORDER

Per: Sanjay Parihar-J

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1. After arguing for a while, learned counsel for the petitioner submits that he would not press for disposal of the instant petition on merits, but rather seeks permission to withdraw the same, with liberty to concentrate on the merits of the bail application. His statement is taken on record.
2. Resultantly, the instant petition is **dismissed** as not pressed. A copy of this order shall be sent to the trial court for information, which shall proceed with the trial of the case in accordance with the law.

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1. The petitioner seeks enlargement on bail in case FIR No. 31/2023, registered under Sections 307 IPC and 3/25 Arms Act, in which he is stated to have been arrested on 30.03.2024, on the ground that he is innocent and has been falsely implicated. It is contended that he was neither involved in the alleged incident of firing nor had any participation in the occurrence. He asserts that, being a taxi driver by profession, he had no connection with the incident and that the trial court has wrongly denied him the concession of bail.
2. It is further pleaded that the shoot-out which took place at Rangoor Camp has no nexus with the petitioner, who has been arrayed as an

accused only in the supplementary charge-sheet. The petitioner undertakes to abide by any direction imposed by this Court.

3. As per the prosecution case, on 12.06.2023, a firing incident occurred at Rangoor Camp, resulting in injuries to two persons, namely Sunil Kumar and Sushil Kumar, leading to the registration of FIR No. 31/2023 under Section 307 IPC and 3/25 Arms Act. Investigation revealed that the firing was carried out by co-accused Satinder Paul Singh, who, along with Sunny and Jagpreet Singh, was later arrested. Besides opening fire, the accused also allegedly robbed a motorcycle bearing registration No. JK21H-8373. During the investigation, it surfaced that the said accused were involved in narcotics smuggling activities. Upon their disclosure, a pistol (Glock-19) with four magazines and 2.80 kilograms of heroin was recovered. The investigation further revealed that other accused persons, including Jagpreet Singh, Sunny Baba, and Satbir Singh, were also engaged in narco-trade.
4. It is alleged that co-accused Satinder Paul Singh, during questioning, disclosed that the petitioner had dropped the co-accused at the international border, where they contacted a Pakistan-based handler named “Chacha” through WhatsApp for receiving a narcotic consignment. Although the consignment could not be delivered that day, the petitioner was alleged to have facilitated their movement. Subsequent investigation indicated that the petitioner was an active member of a gang involved in smuggling narcotics from across the border in conspiracy with other accused persons. The petitioner, whose name surfaced during the

questioning of co-accused Satinder Paul Singh, allegedly absconded and was later arrested on 30.03.2024.

5. Learned counsel for the petitioner contends that the only allegation against the petitioner is that he had dropped the co-accused at a particular place in the discharge of his professional duty as a taxi driver. No recovery has been effected from him, and his name did not figure in the first charge-sheet. He was implicated subsequently with the aid of Section 29 of the NDPS Act, solely based on the disclosure statements of the co-accused. It is thus urged that the petitioner deserves to be enlarged on bail as there is no tangible evidence of his complicity.
6. *Per contra*, learned counsel for the respondents submits that the petitioner is a part of a gang operating near the international border, engaged in obtaining narcotics from across the border and selling the same in the mainland. It is further contended that certain accused persons are still absconding, and their arrest is being pursued. The investigation, according to the respondents, has substantiated offences under Sections 8, 21(c), 22(c), 23(c), 25, 27-A, and 29(1) of the NDPS Act, for which the petitioner continues to remain in judicial custody.
7. I have considered the submissions of learned counsel for both sides and perused the police report as well as the objections filed by the respondents. The petitioner is presently in custody, and the charge sheets have been presented before the learned Sessions Judge, Samba. Admittedly, neither any recovery has been effected from the possession of the petitioner, nor does the disclosure statement of

the co-accused indicate that any recovery was made at the instance of the petitioner. The alleged disclosure statements have been recorded during the course of a police investigation, and unless such statements lead to the discovery of any fact or thing, they are rendered inadmissible in evidence. It is stated that during the investigation, the petitioner allegedly admitted his involvement as part of the module operated by co-accused Satinder Paul Singh.

8. However, the so-called confessional statements attributed to the petitioner or co-accused, recorded in police custody, are hit by Section 26 of the Indian Evidence Act and cannot be read in evidence. The law on this issue has been settled by the Hon'ble Supreme Court in "*Tofan Singh v. State of Tamil Nadu*", 2021 (4) SCC 1, wherein it was held that confessional statement made by an accused against co-accused before Police Official is in-admissible in evidence. This position of law has been reiterated by a Coordinate Bench of this Court in "*Rayees Ahmad Dar v. UT of J&K*" (Bail App No. 05/2022) decided on 21.05.2022, and again in "*Yugraj Singh v. UT of J&K & Anr.*" (Bail App No. 252/2024) decided on 25.03.2025, where it was held that mere call detail records or telephonic contacts, without any substantive recovery or corroborative material, cannot form the sole basis to infer guilt under Section 27-A of the NDPS Act. It was held as under: -

"16. xxxxx In the opinion of this Court, CDR details showing contact between the petitioner and the co-accused, without there being any voice recording relating to conversation between them, may not be sufficient to convict the petitioner for offence under

Section 27-A of NDPS Act, though it raises a suspicion about his involvement in the alleged crime.

17. In the face of the 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 offence under Section 27-A of NDPS Act. Thus, he has been able to carve out a prima facie case for grant of bail.”

9. Given the aforesaid legal proposition and the consistent position of law reiterated by this Court, it is apparent that neither any recovery has been effected from the possession of the accused nor has there been any discovery of fact or thing at his instance that could connect him with the commission of the alleged offence. Even if the case of the prosecution is to be considered under the ambit of Section 29 of the NDPS Act, tangible and credible material was required to be produced to substantiate such an allegation. The only material relied upon by the prosecution is the confessional statement of the co-accused, who merely stated that they had travelled towards the scene of the crime in the petitioner’s vehicle. It is an admitted position that the petitioner is a taxi driver by profession and, therefore, cannot be expected to know the antecedents or intentions of his passengers. To bring the petitioner within the scope of criminal conspiracy, the prosecution was required to place on record specific material disclosing his prior knowledge about the co-accused and their involvement in narcotic activities. The call detail records, even if taken into account, do not reveal any incriminating circumstance other than possible communication for hiring the petitioner’s taxi. Moreover, as per the

prosecution's own response, the co-accused were unable to procure any contraband during their visit to the concerned area.

10. *Prima facie*, considering the material presently available on record, there appears to be insufficient evidence to attract the rigour of Section 37 of the NDPS Act against the petitioner. Regarding the incidents of firing and robbery of a motorcycle, the petitioner's presence has not been established, nor is there any material to suggest his participation in the subsequent transportation of narcotic substances, except on one occasion when he allegedly dropped the co-accused at a particular location. Even then, there is no indication that any contraband was carried in his vehicle. The prosecution has also failed to demonstrate that the petitioner has ever been involved in similar offences in the past.

11. In view of the foregoing discussion, the Court finds that the petitioner has successfully made out a strong prima facie case for the grant of bail. Accordingly, the bail application is allowed, and the petitioner is admitted to bail subject to the following conditions:

- i. he shall furnish two solvent sureties in the amount of ₹1,00,000 each to the satisfaction of the learned trial court, along with a personal bond of the like amount;
- ii. he shall not, in any manner, attempt to contact or influence any of the prosecution witnesses during the pendency of the trial;
- iii. he shall appear before the learned trial court on each date of hearing unless exempted for valid reasons;
- iv. he shall not indulge in any offence of a similar nature; and

v. he shall surrender his passport, if any, before the learned trial court and shall not leave the country without prior permission of the court.

12. It is, however, clarified that any observation made herein is only for the purpose of deciding the present bail application and shall not be construed as an expression of opinion on the merits of the case.

13. The application is accordingly **disposed of**.

(Sanjay Parihar)
Judge

JAMMU
14.10.2025
Pawan Angotra

Whether the order is speaking? : Yes/No

Whether the order is reportable? : Yes/No

