

Sr. No. 01

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

**Case No. :Bail App No. 171/2025
CrlM No. 1048/2025**

Date of pronouncement:08.10.2025

Uploaded on : 09.10.2025

Ajit Singh, Age 43 years,
S/o Sh. Late. Kirpal Singh,
R/o ward No. 1 Simbal Camp,
Jammu

through his wife

Suman Lata, Age 40 years,
W/o Ajeet Singh,
R/o Ward No. 1 Simbal Camp,
Miran Sahib, R.S.Pura Jammu

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

Through:- Mr. Sanchit Verma, Advocate &
Mr. Rajat Jamwal, Advocate

V/s

1) U.T. of Jammu & Kashmir
Through SHO Police Station,
Miran Sahib, District Jammu



.....Respondent(s)

Through:- Mr. Pawan Dev Singh, Dy.AG

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

ORDER

1. The petitioner, Ajit Singh, has been denied the concession of bail by the learned Special Judge (NDPS Cases), Jammu, in case FIR No. 34/2025 registered under Sections 8/21/22 of the NDPS Act. He has, therefore, approached this Court seeking his release on bail, primarily on the ground that the charge-sheet stands filed, and the recovery effected is to the extent of 5.62 grams of heroin, marginally above the prescribed *small quantity* of 5 grams. Though

the said quantity falls within the *intermediate* range, Section 37 of the NDPS Act is not attracted. The petitioner has remained in custody for over four months, and the trial court, according to him, rejected bail on assumptions rather than substantive grounds. Considering the nature of evidence, the petitioner contends that there is no reasonable likelihood of his conviction for such an offence.

2. As per the prosecution, on 11.03.2025 at about 9:15 PM, the petitioner was intercepted by a police naka party from Police Station Miran Sahib within its jurisdiction. During search, a black polythene pouch containing approximately 7-8 grams of heroin-like substance was recovered from the right pocket of his trouser. The prosecution further claims that the petitioner is a habitual offender, previously involved in FIR Nos. 28/2005 and 70/2013. It is also alleged that during investigation, scrutiny of his bank account revealed significant UPI-based transactions, which prima facie suggest his involvement not only as a consumer but also as a supplier of drugs to the younger generation.
3. Learned counsel for the petitioner submitted that even if the recovered quantity is weighed on an electronic scale, it would fall below the *small quantity* threshold of 5 grams, since the prosecution itself initially claimed recovery of 7-8 grams which was later determined as 5.62 grams. It is further urged that the petitioner, having once fallen into drug addiction, underwent treatment at a De-addiction Centre and has since recovered. The

allegation of supply is stated to be unfounded and based merely on suspicion.

4. Per contra, learned counsel for the respondents, supported the order of the trial court by submitting that the material on record clearly brings the case within the ambit of *intermediate quantity*, punishable up to ten years' imprisonment, and hence, the petitioner does not deserve the concession of bail.
5. I have heard learned counsel for the parties and perused the record.
6. Given the nature of the contraband recovered, it is fairly conceded by both sides that Section 37 of the NDPS Act has no application to the present case. The prosecution has alleged that the petitioner is not merely a consumer but also a supplier, based on certain financial transactions. Though such transactions were verified during investigation, there is no material to show that the petitioner has indulged in *financing or illicit traffic* in narcotic drugs as contemplated under Section 27A or other relevant provisions of the NDPS Act.
7. In terms of Section 37(2) of the NDPS Act, the restrictions on the grant of bail shall be in addition to those contained in the Code of Criminal Procedure or any other law in force. As the occurrence in question took place on 11.03.2025, the provisions of the **Bhartiya Nagarik Suraksha Sanhita, 2023 (BNSS)** would govern the field. Under Section 480 of the BNSS, bail may be denied to an accused of a non-bailable offence only if there exist reasonable grounds to believe that he is guilty of an offence punishable with death or life imprisonment, or if he has prior convictions of certain specified

categories. However, such person may still be released if he is a child, woman, sick, or infirm. Hence, reading Section 37 of the NDPS Act with Section 480 of BNSS, there appears no statutory bar in granting bail to the petitioner.

8. It is not disputed that the petitioner had earlier undergone a de-addiction programme at Jalandhar from 26.08.2019 to 24.02.2020. The counsel for the respondent contends that this circumstance cannot be treated as mitigating, since despite rehabilitation, he continued to consume drugs, as indicated by the present recovery.
9. Though the allegations are serious, and the petitioner has prior involvement in similar offences, the recovery in the present case is only marginally above the *small quantity* threshold. The contraband seized is 5.62 grams of heroin, barely crosses that limit and lies on the lower side of the *intermediate* range. The petitioner has remained in custody since his arrest and has thus undergone incarceration exceeding six months. If the substance is reweighed electronically, there remains a plausible possibility of it falling within the *small quantity* range, attracting a lesser punishment of up to six months' imprisonment.
10. In the totality of circumstances, this Court is of the view that the petitioner has made out a *prima facie* case for grant of bail. Accordingly, the petition is **allowed**. The petitioner, Ajit Singh, is directed to be released on bail on furnishing a personal bond in the sum of ₹1,00,000/- (Rupees One Lakh only) with one surety of the like amount to the satisfaction of the trial court, subject to such

other conditions as the said court may deem fit to impose for ensuring his appearance during trial.

- 11. A copy of this order be transmitted to the trial court concerned for necessary compliance.
- 12. **Disposed of** as above along with connected application(s).

(SANJAY PARIHAR)
JUDGE

JAMMU
08.10.2025
Pawan Angotra

Whether the order is speaking? : Yes/No
Whether the order is reportable? : Yes/No

