

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

(Through Virtual Mode)

**From Srinagar Wing**

**Bail App 175/2025**

**CrIM (1066/2025), CrIM (2279/2025)**

MamtaKansal

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

Through: Asheesh Singh Kotwal, Advocate

V/s

Union of India through NCB Jammu

... Respondents

Through: Mr. Vishal Sharma, DSGI

**CORAM:**

**HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE**

**ORDER**

**27.11.2025**

1. Petitioner through the medium of the aforesaid petition seeks enlargement on bail from NCB, Jammu in complaint bearing no. 12/2022 dated 19-08-2022 under Section 33 NDPS Act titled "*Union of India through I.O. Narcotics Control Bureau, Jammu v. Tufail Ahmed Sheikh*" pending adjudication before the Id. Principal Sessions Court, Samba (Special Judge under NDPS ACT) [for short 'trial court'] *inter alia* on the ground that the petitioner has been arrested in the aforesaid complaint and despite expiry of stipulated period of investigation, charge sheet has not been filed.
2. It is submitted that the petitioner has a legitimate business of distribution, transportation and marketing of codeine-based

- cough syrup namely “Cocrex” being run through her firm namely M/s Kansal Pharmaceuticals.
3. The respondent alleges that the drugs recovered from the accused Tufail Ahmad Sheikh (co-accused) were illegally brought and transported from the concern of the petitioner, as on the date of incident the respondent recovered two carton boxes containing 590 bottles of codeine-based cough syrup, named above, and marketed by the petitioner’s concern. It is submitted that the said recovery has been effected on 19-05-2022 and three years thereafter the petitioner has been allegedly roped in, whereas the petitioner is a registered supplier and had supplied the drugs to the lawful distributors, and that the petitioner has no concern with the factum of recovery of the drugs from the co-accused. Hence, her enlargement on bail was sought before the trial court, wherein the trial court by the order dated 28.5.2025 has rejected her bail application.
  4. According to the respondent, the petitioner is the proprietor of the pharmaceutical concern who has indulged in illegal sale and manufacture of drugs, with the result, the license of her pharmaceutical concern has been cancelled. Though the lid was opened after recovery was effected from the co-accused Tufail Ahmad Sheikh, however on the strength of investigation a formal complaint has been lodged against the petitioner before the trial court being complaint under section

- 8/21 (c), 22, 25, 27-A, 29 and 80 of NDPS Act. It is further submitted that at the time when the bail application was declined by the trial court, the investigation was still at its initial stage and that with the filing of the charge sheet, the petitioner is well within his right to apply for bail afresh and project his case as against the complainant.
5. On the other hand, the counsel of petitioner submitted that the second complaint is not maintainable while heavily relying upon **(2018)1 ILR (H) 103Khekh Ram vs. Narcotics Central Bureau and Another.**
  6. Upon hearing both the counsel, the submissions made by the learned DSGI have got substance because when the bail application was declined by the trial court, at that time the investigation was at infancy and with the filing of the complaint on 30.9.2025, the petitioner has all the liberty to contest the maintainability of the second complaint and to persuade the court to return the finding whether the second complaint in the case was maintainable or not, that too when the case of the respondent is that the lid was opened with the recovery from co-accused Tufail Ahmad Sheikh and after further investigation it transpired that the petitioner is indulging in inter-state drug trafficking racket for which she was arrested on the basis of investigation and a formal complaint has been laid.

7. Though the counsel for the petitioner was vehemently praying that let this court return a finding on the issue whether the second complaint is maintainable, I am not persuaded by the said argument because with the filing of the complaint, there is change in the circumstances and petitioner has all the liberty to raise issues pleaded in the bail application before the trial court afresh. Even otherwise, once the complaint has been filed, the matter is to be now taken up for the purposes of charge/discharge so petitioner has all the liberty to put forth her case.
8. In the above background, without commenting upon the merits of the case, the petitioner is relegated back to the trial court with the liberty to file a bail plea afresh, enumerating the grounds that are being taken in the present application as well as new one, enabling the trial court to take a call afresh on the merits of the bail application.
9. Disposed of with connected CMPs.

**(Sanjay Parihar)**  
**Judge**

**SRINAGAR**  
**27.11.2025**  
*N Ahmad*

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