

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

**Case No. :-Bail App No.198/2025
CrlM No.1261/2025
CrlM No.1606/2025**

Reserved on : 15.10.2025
Pronounced on : 16.10.2025
Uploaded on : 16.10.2025

Ranjana Kumari, Age 35
W/O Vishal,
R/O Rajeev Nagar, Narwal, Jammu.

.... **Petitioner(s)**

Through:- Mr.Tanveer Ahmed Khan,
Advocate.
Mr. Arif Zargar, Advocate.

V/s

UT of J&K through SHO Police
Station Bahu Fort, Jammu.

.....**Respondent(s)**

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

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

ORDER

01. By this bail application, prayer is made by the petitioner for her enlargement on bail in case FIR No.200/2025 under Sections 8/21/22/27-A of NDPS Act registered with Police Station Bahu Fort and it is claimed that she is innocent and has been got falsely implicated. That the allegation is with regard to the possession of 11.01 grams of Heroin and cash amounting to Rs.40,400/- besides electronic weighing machine, which quantity is far less than the prescribed commercial quantity; that she has been arrested on 28.06.2025 and since then she is

languishing in custody. Whereas the alleged amount is claimed to have been kept by her for treatment of her minor daughter, who is suffering from 'Hypoechoic Cystic Lesion' and for that she had taken membership of Vishnu Trading Company and on 25.06.2025 she had received a sum of Rs.60,000/- so as to get her child treated. It is submitted that charge-sheet has already been filed in the court of law and that petitioner is not required for further investigation.

02. The bail application is opposed by the respondent on the premises that accusations are of heinous nature and the petitioner is indulging in drug trafficking and the fact that Rs.40,400/- was recovered from her, seriously questions her conduct and this amount she has realized by indulging in illicit drug trafficking, that is why, she has been booked under Section 27-A NDPS. Once that is the case, then in terms of section 37 of the NDPS Act, she is not entitled for concession of bail.
03. Heard both the counsels and seen the record of the case as well as the copy of the charge-sheet that has been placed on record by the petitioner.
04. Admittedly, the recovery in this case is of 11.01 grams, which is just a shade ahead of the prescribed small quantity of 5 grams and given the extent of recovery, then Section 37 of the Act would be applicable only where the recovery and possession is of commercial nature of the contraband.

05. During the course of hearing, the counsel for the petitioner has placed reliance on **State of West Bengal Vs. Rakesh Singh @ Rakesh Kumar Singh** reported in **2022 LiveLaw (SC) 580** to advance the plea that Section 27-A is not applicable and given the nature of the quantity recovered, the rigour of Section 37 NDPS Act has no application. In this Authority, there was recovery of 76 grams of cocaine. It was alleged that the accused is financing illicit trafficking of contraband and also harboring offenders, dispelling the application of Section 27A of the NDPS Act, it was held as under:-

“8. Fourthly, in so far as the offence under Section 27A of the NDPS Act is concerned, i.e. financing illicit trafficking and harbouring offenders, prima facie we do not find material evidence to support that charge. In our view, being involved in one solitary transaction concerning contraband items will not amount to financing illicit traffic in narcotics. The word “trafficking” connotes continuous flow. There has to be some degree of continuity and regularity in drug dealing before a person can be said to be trafficking in drugs. Similarly, financing illicit traffic would necessarily mean doing so on a regular or continuous basis. It is much more than purchasing or selling contraband items on one occasion. Such a solitary transaction would, in our prima facie opinion, not fall within the mischief of Section 27A of the NDPS Act. In this connection, one may refer to a decision of the Bombay High Court rendered on October 7, 2020 in Criminal Bail Application (Stamp) No. 2386 of 2020 (Reha Chakraborty v. The Union of India State of Maharashtra).”

06. The petitioner along with application has placed on record the copy of Pass-Book issued by the Vishnu Trading Company. The petitioner claims that Rs.40,400/- which is alleged to have been recovered from her has nothing to do with the contraband. This was meant for affecting the treatment of her minor child, who is having 'Hypoechoic Cystic Lesion', for that she is required to be treated and had for that purpose been constantly subscribing to Vishnu Trading Company, who had paid her Rs.60,000/- as maturity amount, which she received on 25.06.2025 and on 28.06.2025 part of it has been recovered. The same is averred in the petition, however, there is no rebuttal by the respondent to this extent. Even if the contention of the respondent is to be accepted that Rs.40,400/- was an illegally drawn amount realized by way of sale of narcotics, but even if the said allegations are taken on face value, that would not invite Section 27A because in the light of **Rakesh Kumar Singh's** case (supra) the word 'trafficking' connotes continuous flow of drug trafficking activity meaning thereby that the person must be dealing with it on continuous basis. Similarly, financing is also one aspect, which was required to be taken into consideration and given the allegations as directed in the charge-sheet, prima facie, even the act of financing illicit trafficking of narcotic appears to be, prima facie, not disclosed.
07. Once the petitioner is able to cast doubt in the prosecution case regarding application of Section 27A, then mere possession of

11.01 grams of narcotic substance being just a shade ahead of the prescribed small quantity of 5 grams would not attract application of Section 37 of the NDPS Act.

08. The petitioner has been in custody since the date of registration of FIR and now the charge-sheet has also been filed before the court of law. Ultimately, it is for the prosecution to lay foundational facts about illegal possession of narcotics by the petitioner and once it discharges the initial onus, burden would shift on the petitioner to dislodge presumption under section 29 read with section 54 of the NDPS Act. The petitioner is stated to be having a minor child who is suffering from particular type of ailment and for that medical record has been annexed with the petition, which is not disputed by the respondent. In that background, the petitioner has been able to carve out a strong prima facie case for her enlargement on bail. This Court is conscious of the fact that there has been an alarming rise in illegal possession and transportation of narcotic substance especially that of 'Heroin' and given the strata of the society in which the petitioner is placed, chances of she having been exploited by the drug peddlers cannot be ruled at this stage. There appears to be no prior history of her involvement in such type of cases. In that background, denial of concession of bail to her, pending determination of trial, would work to her great disadvantage and her minor child would be left without care of her mother.

09. Given the aforesaid mitigating circumstances, in order to strike a balance between the social aspect and the personal liberty of the petitioner, a case for her enlargement on bail is made out. Accordingly, the bail application is allowed, and the petitioner is admitted to bail subject to the following conditions:
- i) she shall furnish surety in the amount of ₹1,00,000 to the satisfaction of the trial court, along with a personal bond of the like amount;
 - ii) she shall not, in any manner, attempt to contact or influence any of the prosecution witnesses during the pendency of the trial;
 - iii) she shall appear before the learned trial court on each date of hearing unless exempted for valid reasons;
 - iv) she shall not indulge in any offence of a similar nature; and
 - v) she shall surrender her passport, if any, before the learned trial court and shall not leave the country without prior permission of the court.
10. 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.
11. The application is accordingly **disposed of**.

(SANJAY PARIHAR)
JUDGE

JAMMU
16.10.2025
Narinder

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