

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

...
CRM (M) No. 236/2022.

Sajad Ahmad Abbasi.

.....Petitioner(s)

Through:

Mr. Sheikh Manzoor, Advocate

Versus

Union Territory through Police Station CIK Srinagar.

.....Respondent(s)

Through:

Mr. Mohsin Qadri, Sr. AAG with Ms. Maha Majeed, Assisting Counsel.

CORAM:

HON'BLE MR. JUSTICE MOHAMMAD YOUSUF WANI, JUDGE

ORDER
19.02.2025

1. Case FIR No. 3/2021 came to be registered with the Police Station CIK Srinagar in respect of the offences under the Unlawful Activities (Prevention) Act, 1967 and Narcotic Drugs and Psychotropic Substances Act, 1985. During the investigation of the Case, the offences under ULA (P) Act 1967 could not be found established against the accused and the final report under Section 173 of the repealed Code of Criminal Procedure 1973 corresponding to Section 193 of BNSS came to be filed before the competent court i.e., Special Judge under NDPS Act (4th Additional Sessions Judge, Srinagar).
2. The present petitioner/accused Sajad Ahmad Abbassi approached the competent trial court seeking temporary bail on humanitarian grounds which was granted vide order dated 27th April, 2022. As per the said

order the petitioner/accused was admitted to temporary bail on humanitarian grounds for a period of 25 days, with direction to him to surrender before the Superintendent, Central Jail, Srinagar, after the expiry of the said period.

3. The petitioner/accused, however, also approached the designated court under NIA Act seeking a default bail in the same case FIR on the ground that investigating agency has failed to present the charge report before the designated Court within the stipulated period of 180 days.
4. The learned designated court under NIA Act vide order dated 11.05.2022 admitted the petitioner/accused to default bail in the case FIR.
5. Upon failure of the petitioner/accused to surrender before the Superintendent, Central Jail, Srinagar, after the period of temporary bail granted vide order dated 27.04.2022, SHO Police Station, CIK approached the competent trial court i.e., 4th Additional Sessions Judge, Srinagar for passing of appropriate orders to secure the arrest and surrender of the petitioner. The learned trial court vide order dated 9th of June 2022 directed the SHO, CIK, Srinagar to arrest the petitioner/accused forthwith and to hand-over him to the Superintendent Central Jail, Srinagar. The learned trial court through the same order also directed the SHO concerned as well as Superintendent Central Jail, Srinagar, to submit the compliance report without any delay. The Superintendent, Central Jail, Srinagar, was also directed by trial court to show cause as to why he should not be dealt with under law for flouting the orders of the Court by not allowing the petitioner/accused to surrender, before him.

6. The petitioner/accused has through the medium of the instant petition assailed the order dated 9th of June 2022 passed by the learned trial court directing the SHO Police Station, CIK, Srinagar to arrest and hand-over him to the Superintendent Central Jail Srinagar.
7. The respondent has already filed his reply.
8. Heard learned counsel for both the parties and perused the material on record.
9. In the facts and circumstances of the case, the matter needs to be disposed of at this stage without completing the further formalities necessary in the case of hearing of a writ petition as per the Jammu and Kashmir High Court Rules. The learned designated court under NIA Act while passing the order dated 11.05.2022 and admitting the petitioner to default bail appears to have committed an illegality. The perusal of the said order dated 11.05.2022 fairly reveals that the learned court was informed about the passing of the earlier order dated 27.04.2022 by the learned trial court as well as the presentation of the final police report/challan before the said court in the offences under NDPS Act only. The learned designated court under NIA Act had no jurisdiction to pass the order dated 11.05.2022 as the final report had already been presented before the learned trial court in the offence under NDPS Act only. It appears that the passing of the said order dated 11.05.2022 by the learned designated court under NIA Act has led to the non-surrender of the petitioner/accused as well as the objection of the Superintendent Central Jail Srinagar in taking him to custody.
10. It is needful to mention that even if the final report/challan in the case FIR could not have been presented before the learned Trial Court within

the stipulated period, it was for the learned Trial Court to address the said issue and to consider the default bail of the petitioner/accused, if any, warranted, in the offences under NDPS Act.

11. For the foregoing discussion there seems to be no merit in the instant petition which is **dismissed**. The impugned order dated 09.06.2022 does not suffer from any illegality.

(MOHAMMAD YOUSUF WANI)
JUDGE

Srinagar
19.02.2025
"Shaista-PS"