

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

Bail App. No. 104/2025

UT of J&K through P/S Kulgam ...Appellant/Petitioner(s)

Through: Mr. Zahid Qais Noor, GA

Vs.

Mashooq Ahmad Hella ...Respondent(s)

Through: None

CORAM:

HON'BLE MR JUSTICE VINOD CHATTERJI KOUL, JUDGE

ORDER

10.12.2025

1. The present petition is directed against the Order dated 11.04.2025, passed by the Court of the Principal Sessions Judge, Kulgam, in the case titled *Mashooq Ahmad Hella v SHO Police Station Kulgam*. The impugned order grants bail to the respondent/accused, subject to certain conditions, which is assailed as being contrary to law.
2. As per the prosecution records, on 24.01.2025, while a police party was conducting *naka* duty, a suspicious individual (subsequently identified as the respondent/accused) carrying a bag was intercepted. A search of the said bag resulted in the recovery of 2 kilograms of poppy straw.
3. The respondent/accused was arrested on the same day viz 24.01.2025, and has been charged with offences punishable under Sections 8/15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act). He remained in custody for a period of approximately two and a half months before being released on bail vide the impugned Order dated 11.04.2025.
4. Learned Government Advocate, Mr. Zahid Qais Noor, vehemently contends that the Trial Court erred in granting bail, arguing that the accused is involved in a serious offence and that the nature of the alleged criminal activity warrants the denial of the relief of bail.

5. It is an admitted position on the record of the case that the alleged recovery effected from the possession of the accused/respondent comprises 2 kilograms of poppy straw.
6. Learned Counsel for the respondent submits that, based on the statutory scheme and the relevant notifications issued by the Central Government under the NDPS Act, the recovered quantity of 2 kilograms of poppy straw demonstrably falls below the minimum threshold required for classification as a 'Commercial Quantity'. Consequently, it is asserted that the rigorous restrictions imposed on the grant of bail under Section 37 of the NDPS Act, specifically the mandatory satisfaction of the twin conditions (regarding the accused's non-guilt and assurance against committing future offences) are not automatically attracted or applicable in the present matter. This absence of the Section 37 bar permitted the Trial Court to consider the bail application based on the general principles enshrined in the Code of Criminal Procedure, 1973 (CrPC).
7. In view of the foregoing analysis and the undisputed finding that the recovered quantity of poppy straw does not constitute a 'Commercial Quantity', thereby rendering the stricture of Section 37 of the NDPS Act inapplicable, therefore, this Court finds that the Principal Sessions Judge did not commit any material illegality, perversity, or jurisdictional error in applying the general principles of the Code of Criminal Procedure for the grant of bail.
8. Accordingly, the order dated 11.04.2025 is sustained. Finding no merit in the present petition challenging the said order, the same is **dismissed**.

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR

10.12.2025

Manzoor