

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

Bail App. No. 166/2025

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

Through: Mr. Hakeem Aman Ali, Dy. AG

Vs.

Habil Yaseen ...Respondent(s)

Through: None

CORAM:

HON'BLE MR JUSTICE VINOD CHATTERJI KOUL, JUDGE

ORDER

10.12.2025

1. This petition challenges the order dated 05.06.2025 passed by the Court of the Special Judge, NDPS, Baramulla, in *Habil Yaseen v. UT of J&K*, which granted bail to the respondent subject to certain conditions.
2. As per the prosecution case, on 06.03.2025, Police Station, Kunzar, received a written docket from Head Constable Gulzar Ahmad stating that he, along with a police contingent, was on naka duty conducting checking of vehicles at Tarhama. During the said duty, one person was seen approaching Tarhama who, upon noticing the police, attempted to flee from the spot. The said person was apprehended, and during preliminary inquiry he disclosed his name as Habil Yaseen S/o Mohammad Yaseen R/o Tarhama Kunzar. Upon his personal search, one polythene envelope was recovered from the right pocket of his jacket, containing heroin-like substance along with some cash.
3. The respondent/accused was charged with violation of Sections 8/21 of the NDPS Act. He was taken into custody on 06.03.2025 and was held for about two months before being released on bail by an order passed on 05.06.2025 by the Special Judge, NDPS, Baramulla.
4. Learned Dy. Advocate General, Mr. Hakeem Aman Ali, appearing for the petitioner argues that the Trial Court erred in granting the bail because the accused/respondent is implicated in a heinous offence. He

also submits that while the quantity of contraband (heroin) recovered from the respondent/accused may be categorized as “intermediate”, the respondent’s history as a habitual offender and his documented involvement in multiple similar cases necessitate a rigorous evaluation of the bail application, strictly to the mandatory conditions stipulated under Section 37 of the NDPS Act.

5. It is an undisputed fact that the quantity of contraband material, alleged to have been recovered from the possession of the accused/respondent, exceeds the prescribed limit of a "Small Quantity" and is, in fact, substantially higher than the statutorily defined "Intermediate Quantity" under the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act). However, the said recovered quantity has not attained the requisite minimum threshold necessary to be legally classified as a "Commercial Quantity" as detailed in the relevant Notifications issued by the Central Government.
6. The distinction is fundamental, as it confines the maximum penalty exposure of the accused/respondent to the provisions applicable for possession of an Intermediate Quantity, thereby precluding the imposition of the most severe punishment mandated for Commercial Quantity offences. Furthermore, pertinent to the instant application, this classification dictates that the rigorous restrictions imposed on the grant of bail under Section 37 of the NDPS Act, specifically the satisfaction of the twin conditions—are not automatically attracted or applicable to the present case.
7. In light of the foregoing discussion, this Court is of the considered view that the order of the Trial Court granting bail to the accused/respondent is well-reasoned and does not disclose any error of law or perversity that would justify interference. Consequently, the present petition, being devoid of merit, is **dismissed**.

(VINOD CHATTERJI KOUL)
JUDGE

SRINAGAR

10.12.2025

Manzoor