

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

(Through Virtual Mode)

Bail App 9/2026

Reserved on : 17.07.2026

Pronounced on : 20.07.2026

Uploaded on : 20.07.2026

**Whether the operative part or full
order is pronounced: Full**

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

**Mandeep Kour, Aged 25 Years
C/O Lovepreet Singh
R/O H.No. 289, Baba Shri Chand Avenue, Majitha
Road, Amritsar, Punjab – 143001
Through Her Mother
Amarjeet Kour, Aged 43 Years,
W/O Avtar singh
R/O 4086, 7, Sultanwind Road, Kot Baba Deep
Singh, Amritsar, Punjab - 143001**

**Through: Mr. Mayank Gupta, Advocate
Vs.**

**UT of Jammu & Kashmir through
Police Station Udhampur**

...Respondent(s)

Through: Mr. Sumeet Bhatia, GA

CORAM:

HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE.

ORDER

1. By this application, the applicant- Amarjeet Kour is seeking bail of her daughter- Mandeep Kour, W/O Lovepreet Singh, R/O Baba Shri Chand Avenue, Majitha Road, Amritsar, Punjab, who was arrested by the Police Station Udhampur, in connection with her involvement in case FIR No. 373/2022, registered for the commission of offences punishable in terms of Sections 8/21/22 of the NDPS Act and is lodged in District Jail Udhampur from the date of her arrest viz 02.09.2022 till today.

Brief Facts:

2. It is stated in the application that the accused, Mandeep Kour, along with her husband namely Lovepreet Singh S/O Karnail Singh R/O Madan Lal Dheengra Colony Ram Tirath Road Amritsar Punjab were travelling from Srinagar to Punjab on 02.09.2022 in a vehicle (Toyota Innova) bearing registration No. PB02CE-8131. Upon reaching Jakhani, Udhampur, the said vehicle was intercepted by the Naka Party and during the search of the vehicle, seven packets of transparent Heroine like narcotic substance were found in its dickey. Consequently, Mandeep Kour, along with her husband were arrested and case FIR No. 373/2022 came to be registered at the Police Station Udhampur for the commission of offences punishable in terms of Sections 8/21/22 of the NDPS Act.
3. The investigation of the case culminated in the filing of a charge-sheet against both the accused before the Court of the learned Additional Sessions Judge, Udhampur [with special powers under NDPS Act] {hereinafter referred to as the "Trial Court"}. During the pendency of the trial, the accused, Mandeep Kour, filed an application before the Trial Court, seeking grant of bail on the grounds stated therein. Upon consideration of the matter, the Trial Court, vide order dated 20.12.2025, dismissed the bail application, *inter alia*, holding that the offence alleged against the accused is grave and heinous in nature, affecting society at large and does not inspire satisfaction of the court that the accused was required to be bailed out at that point of time, given the apprehension

that she may indulge in similar activities while on bail, as she has directly been involved in the supply of the contraband in question.

4. The applicant has now approached this Court seeking the release of the accused, Mandeep Kour, on bail, *inter alia*, on the grounds that there is nothing adverse reported against the said lady, who was travelling in the vehicle with her husband to visit Kashmir, pursuant to her marriage with the co-accused- Lovepreet Singh; that the prosecution does not refer to the contraband having been seized from the possession of Mandeep Kour; that the rigor of Section 37 is not attracted in the case; that the trial of the case is going for more than three years and the prosecution has only recorded the statements of nine witnesses, while eleven more are yet to be examined; that the trial of the case is going to take time to conclude and in case at the conclusion of the trial, the accused- Mandeep Kour is declared innocent, she cannot be compensated by any means at the point of time for having remained incarcerated all along.
5. Upon notice, the respondent has appeared and filed his objections, resisting the claim of the applicant.
6. It is stated in the objections that the accused- Mandeep Kour was travelling in the offending vehicle carrying seven packets of transparent heroine like narcotic substance. The accused is believed to be a member of the larger drug trafficking network as the police, in the case in hand, has been informed by the Punjab Police that a case bearing FIR no. 93/2014 under Sections 21/22/61/85 of NDPS Act of Police Station Chatiwind, Amritsar was registered against one Sukhwinder Singh and the vehicle seized in the instant case had also been used by the said

accused, which implies that the accused, Mandeep Kour, along with her husband, Lovepreet Singh, are part of a large drug trafficking network.

7. Heard learned counsel for the parties, considered the submissions made and perused the material made available.
8. It appears that a Toyato Innova vehicle bearing registration No. PB02CE-8131, coming from Kashmir towards Punjab on 02.09.2022, upon being intercepted by the Naka Party at Jakhani,, Udhampur, was found to be carrying seven packets of heroine like narcotic substance, which was seized and on such recovery, the occupants of the vehicle i.e., Lovepreet Singh and Mandeep Kour, who are stated to be spouses, were apprehended and subsequently booked for the commission of offences punishable in terms of Sections 8/21/22 of the NDPS Act. The investigation resulted into the presentation of the charge-sheet before the trial court and the trial that commenced subsequently, has by now, recorded the statements of 14 to 15 witnesses out of 20 cited prosecution witnesses. The applicant claiming to be the mother of Mandeep Kour, who was arrested in the said vehicle, had earlier moved a similar application before the trial court, which did not find favour of the court and was thus rejected.
9. The applicant has now come before this Court, seeking release of her daughter Mandeep Kour, on the grounds taken in the application.
10. Learned counsel for the applicant submits that the accused is innocent, has not committed any offence, as nothing incriminating has been recovered from her person, even on the showing of the prosecution itself. The learned counsel further submits that every accused is presumed to be

innocent till the guilt is proved and in the instant case, the prosecution story itself shows that the accused Mandeep Kour is innocent, as she has been only travelling in the offending vehicle from which, the alleged narcotic substance has been recovered. He further submits that, jail is an exception while bail is a rule, more particularly, when the accused is a female. Learned counsel submits that the accused deserves to be given the concession of bail in the facts and circumstances of the case. He also submits that even if it is presumed, but not admitted that the accused has committed the alleged offence, yet the court needs to take into consideration that the accused is not a habitual offender but has committed such offence for the first time. Learned counsel also submits that the accused is incarcerated for about more than three years now and the trial is likely to consume considerable amount of time and the accused cannot be allowed to remain in prison till the time such trial is concluded. In support of the submission, learned counsel for the applicant has referred to and relied upon the judgment of the Hon'ble Punjab and Haryana High Court, delivered in case titled "*Abida Vs. State of Haryana*" bearing CRM-M-5077-2022 and the order of this court, delivered in a bail application bearing Bail App No. 34/2025 titled "*Zeeshan Nisar Vs. UT of J&K*".

11. *Per contra*, the Learned counsel for the respondents Mr. Sumeet Bhatia, learned Government Advocate, while resisting the claim of the applicant, submits that the accused cannot claim bail as a matter of right. He submits that the accused is involved in one of the most heinous offences, which crumbles the very fabric of the society, as it targets the individual,

families and the society as a whole. Learned counsel further submits that the most vulnerable lot in the process is the young generation and if the young minds are made to get addicted to the drugs, the society and eventually, the nation loses the very bright minds. Learned counsel also submits that the accused being involved in an offence which is against the society at large, having far reaching consequences, deserves to be shown no leniency. He further submits that upon personal search of the accused Mandeep Kour, one Iphone 13 Pro Max with Jio SIM No. 6284725650, one Samsung Galaxy F-12, one Samsung Galaxy A-32 along with SIM No. 8283996280 and Cash of Rs. 1,10,000/- were recovered. According to the learned counsel for the respondent, the recovery of these expensive articles would imply that the accused is in fact working as a member of a larger drug trafficking network using different SIM cards to hide her identity. Learned counsel further submits that the recovery of narcotic substance falls within the commercial quantity category, therefore, the court has to record its satisfaction that there exist reasonable grounds for believing that the applicant has not committed the offence, as provided under Section 37 of the NDPS Act. In support of his submissions, learned counsel has placed reliance upon the judgments of the Hon'ble Supreme Court in case titled "*Union of India v. Prateek Shukla*", reported in (2021) 5 SCC 430, and "*State (NCT of Delhi) through Narcotics Control Bureau v. Lokesh Chadha*", reported in (2021) 5 SCC 724.

12. As would appear from the prosecution story, the accused Mandeep Kour, has been traveling in a vehicle from which the alleged contraband

weighing about 7 Kg has been recovered by the Police Station Udhampur at Jhakani Naka on 02.09.2022. The accused has been arrested on the same date and is in custody till now. From the perusal of the record, the accused appears to be a young lady of about 25 years of age and had entered into wedlock with the other co-accused named in the FIR in question, just few months before the date of incident.

13. The applicant has specifically pleaded that the accused is not a habitual offender and has not indulged in such activities in past, therefore, has no past criminal antecedents to her name. The said plea has not been opposed by the respondent except for referring to an implied assertion that since the vehicle used for the crime in question has earlier also been involved in a similar kind of activity, for which a case has been registered at Punjab, involving different accused, therefore, there is a likelihood that the accused might be a member of larger drug trafficking network.
14. While the court takes note of the seriousness of the offence, it also needs to bear in mind the peculiar facts and circumstances in which the accused is booked for her involvement in such a heinous offence. Mere seriousness of the offence does not mean that the accused alleged to be involved in such offence be necessarily punished or kept incarcerated till the trial is concluded, irrespective of the merit of such allegation. The accused has a right to seek concession of bail from the courts of law and it is the court that is cast with the duty to examine and assess the suitability of granting or rejecting such plea of bail concession. In the instant case, there are circumstances that do favour the accused,

Mandeep Kour, in her capacity of being wife of the owner/driver of the vehicle, in which the alleged contraband has been recovered insofar as the bail application is concerned. It needs to be reiterated that, the plea taken by the accused that she had no knowledge about the contraband being carried in the offending vehicle cannot be lost sight of completely, while considering her application for bail. While the plea is taken by the applicant that the accused had no knowledge of the contraband, the conscious possession of such material with the accused gets doubted. In fact, the conscious possession of the narcotics with the accused, Mandeep Kour is completely missing by the showing of prosecution itself.

15. The submission of learned counsel for respondent that the rigor of Section 37 of the NDPS would apply in the case is noted to be rejected only as the mandate prescribed by the said section has been fulfilled by hearing the learned counsel for the other side by recording the satisfaction vis-à-vis the grant or otherwise of the bail application. The Section 37, for facility of reference is reproduced herein below:

[37. Offences to be cognizable and non-bailable

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless-

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.]

16. The plea taken by the learned counsel for the applicant that nothing incriminating was found from the personal search of the accused, does also require to be weighed in light of the relevant provisions of law, as to whether the ingredients envisaged by the NDPS Act, are fulfilled or not.
17. One more vital aspect of the matter is that the accused has been incarcerated for almost four years. As submitted by the learned counsel for the applicant, the statements of 14 to 15 witnesses have already been recorded, and only five or six witnesses remain to be examined. This indicates that almost the entire prosecution evidence has already been brought on record, while the remaining evidence to be recorded may still take a considerable amount of time. In such circumstances, the continued incarceration of the accused for the entire duration of the trial is not warranted. The accused does not necessarily require to be kept in custody for the time, the entire evidence is taken on record, as the apprehension of the respondent that the accused, if granted bail, may influence the witnesses, who are yet to be examined, can be taken care of by putting the accused to reasonable conditions, while being enlarged on bail.

18. The Apex Court in case titled “***Chandrakala Vs. State of NCT of Delhi***” on 09.03.2026, bearing SLP (CRL.) 587/2026, while dealing with a similar kind of case, released the woman accused on bail while having regard to the slow pace of trial. It would be profitable to reproduce paragraph No. 5 of the said order herein, thus:

“5. After investigation chargesheet has been filed and charges have also been framed. Out of 18 witnesses 1 witness has been examined in part. Having heard the learned counsel appearing for the appellant, we notice that co-accused have been released on bail. Appellant is in custody for the past 1 year 11 months and having regard to her age being 68 years and the trial is progressing at a snail’s pace, we are of the considered view that prolonged incarceration is not warranted. At this stage, she is entitled for being released on bail.”

19. I am also fortified in my view by the judgments of the Rajasthan and Gujrat High Courts delivered in cases titled “*Muskan v. State of Rajasthan*”, reported as **2024:RJ-JD:43565**; and “*Union of India through Amit Kumar Intelligence Officer v. State of Gujarat*” reported as **2022 SCC online Guj 1533**.

20. Having regard to what has been said hereinbefore, the application is allowed and the accused is admitted to bail, subject to furnishing of personal bond in the amount of Rs. 1,00,000/- to the satisfaction of the Jail Superintendent concerned, and the surety bond of the like amount, to the satisfaction of the learned Registrar Judicial of this Court. On furnishing of the personal bond and surety bond, the accused shall be released from the custody. While on bail, the accused shall be subject to the following conditions:

- I. That the accused shall not leave the territorial limits of this Court, without seeking prior permission in that behalf.
- II. That the accused shall not try to win over the prosecution witnesses in any way.
- III. That the accused shall not try to hamper or tamper with the prosecution evidence.
- IV. That the accused shall appear before the trial court on each and every date of hearing fixed therein without fail.
- V. Any violation of these conditions shall amount to cessation of the concession of bail.

21. This Court has dealt with the aspect of bail only, therefore, the trial court, shall proceed with the trial without getting influenced by any of the observations of this Court as recorded in this order.

22. Disposed of on the above lines.

(MOKSHA KHAJURIA KAZMI)
JUDGE

SRINAGAR:
20.07.2026
“Adil Ismail”

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| ❖ Whether the Order is Reportable? | No |
| ❖ Whether the Order is Speaking? | Yes |