

Regular List
Serial No. 30

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

CRM(M) No. 189/2023

Date of pronouncement : 27.07.2026

Uploaded on : 28.07.2026

Intiyaz Ahmed Khanday
S/O Sh. Mohd. Rajab Khanday,
R/O Masjid, Damjan Ganoora,
Anantnag, Kashmir

.....Petitioner

Through:- Mr. Pawan K. Kundal, Sr. Adv. with
Mr. Avnish Baboria, Advocate.

V/s

UT of J&K Th.
SHO Police Station, Samba,
Tehsil & District Samba

.....Respondent

Through:- Mr. Vishal Bharti, Dy. AG.

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE
ORDER (ORAL)

01. The petitioner, through the medium of this petition, seeks quashment of order dated 15.03.2022 passed by the learned Principal Sessions Judge, Samba, as Special Judge under the NDPS Act, whereby the application filed by the petitioner for release of his vehicle bearing registration No. JK03C-9848 seized in connection with FIR No. 282/2021 registered at Police Station Samba for commission of offences punishable under Sections 8, 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act (NDPS) Act, 1985, was rejected.

02. Learned Senior Counsel for the petitioner submits that the petitioner is the registered owner of the vehicle and he was not an accused in

the case and that the trial court had rejected the application filed by the petitioner not on some sound ground, but on the basis of some statements recorded during the investigation of the case by the Investigating Officer (I.O.) with regard to change of hands in respect of the vehicle, whereas the fact of the matter remains that petitioner still continues to be the registered owner of the vehicle having been registered in the year 2012 and that he has been paying the installments of the bank loans and in this regard, he has drawn the attention of this Court to a notice of the Branch Unit Shankerpora of J&K Bank dated 02.02.2023, whereby a “Recall Notice” was issued in the name of the petitioner by the Bank. He further argued that the order passed by the court below be quashed and the vehicle be ordered to be released in favour of the petitioner.

03. Pursuant to the notice, the respondent has filed the **status report/reply**, asserting therein that the vehicle was owned having been used in NDPS cases, is liable to be confiscated. As such, the trial court has rightly rejected the application. Since the vehicle is stated to have changed hands from the petitioner to two other persons and the court below has, thus, rightly rejected the plea for release of vehicle in the name of the petitioner, even if being a registered owner.

04. Heard learned counsel for the parties.

05. Though the trial court has observed in its order that the vehicle was stated to have been transferred from petitioner, who is registered

owner, to some other persons. However, there is nothing on record, as is apparent from the impugned order, to suggest that any of the claimants had appeared before the trial court to seek release of the vehicle. It was for the trial court to seek the objections, if any, from the persons, who were stated to have been transferred the vehicle by the registered owner, so as to pass final order in the matter. Such a recourse was inevitable in view of the fact that the vehicle may be required or proceedings to be carried out for confiscation of the vehicle at the time of disposal of the case, as contemplated in Section 60 of the NDPS Act, 1985. In such a situation, the order dated 15.03.2022 passed by the trial Court is not sustained and is liable to be quashed.

06. Viewed thus, the impugned order is set-aside and the matter is remanded back to the trial court for deciding the same after hearing all the parties and also summoning those persons as well, who are stated to have been transferred the vehicle, so as to release the vehicle for the interim custody by imposing sufficient conditions for the production of the vehicle at the appropriate stage.

07. **Disposed of** along with connected application(s), if any.

(M A CHOWDHARY)
JUDGE

JAMMU
27.07.2026
Bunty

Whether the order is speaking: **Yes**
Whether the order is reportable: **Yes**