

Serial No. 84

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

Bail App No. 57/2026

Reserved on: 14.07.2026
Pronounced on: 20.07.2026
Uploaded on: 20.07.2026

*Whether the operative part or Full
judgment is pronounced: **Full***

Mohd. Aslam, (26 years)
S/O Teg Ali
R/O Mathura Chak,
Tehsil Hiranagar, District Kathua

.....Petitioner(s)

Through: Mr. Amjed Khan, Advocate.

Vs

1. **Union of India** through
Narcotics Control Bureau, Jammu
through its Intelligence Officer.
2. Superintendent, Central Jail,
Jammu

..... Respondent(s)

Through: Mr. Eishaan Dadhichi, CGSC vice
Mr. Vishal Sharma, DSGI.

CRM(M) No. 315/2026

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CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

JUDGMENT

CRM(M) No.315/2026

- 01.** Petitioner, facing trial, as one of the accused, in a case titled 'NCB V. Sukhjinder Singh & Ors.' before the Court of learned Principal Sessions Judge, Samba, arising out of NCR Crime No.4/2023 dated 13.06.2023 under Sections 8/21/29/60 NDPS Act, 1985, has challenged the order dated 24.11.2025 passed by the Trial Court, whereby charges have been framed against him under Sections 8/21/29/60 NDPS Act.
- 02.** The impugned order has been assailed on various grounds that no contraband had been recovered from him and he was merely shown as an intended receiver under a conspiracy, regarding which, no proof was placed on record, as conspiracy and abetment require independent corroboration; that the case had been based against the accused squarely on the statements of co-accused recorded under Section 67 of NDPS Act, which in view of Toofan Singh judgment of the Apex court are inadmissible in evidence; that there was no independent and corroborative evidence to link the petitioner to the commission of the crime; that the CDR details placed on record were not of the details of the petitioner's mobile phone; and finally it was prayed to quash the order impugned whereby the petitioner had been charge sheeted.
- 03.** Pursuant to notice, the respondent-NCB filed objections asserting therein that the NCB had received a secret and credible information on 12.06.2023 that three persons namely Sukhjinder Singh, Karan Singh

and Sandeep Singh would transport a commercial quantity of Heroin in private vehicle No. PB09N-1830 (Maruti Alto) from Amritsar (Punjab) to Samba (J&K) for delivery to one-Mohd. Aslam @ Royal (petitioner herein), who was to receive the said consignment at NH-44 near VVM HSS Nonath, Gagwal Area, Samba; that the NCB team, after completing procedural formalities, constituted a raiding team from its Jammu Office, which reached the designated spot and at about 0030 hours on 13.06.2023 maintained surveillance in accordance with law; that they could not secure the presence of any independent witnesses due to late night hours; that at about 3:30 hours, the suspected vehicle was intercepted and three persons were found inside the said vehicle, who disclosed their identities as Sukhjinder Singh, Karan Singh and Sandeep Singh; that at the same time, a motorcycle rider approached the spot in a suspicious manner but upon noticing the personnel of the NCB team, he fled away abandoning his motorcycle No. JK08N-2189, thereby indicating his involvement in the illicit activity.

- 04.** It is further pleaded that subsequent investigation revealed on the basis of the articles recovered from motorcycle that the same was abandoned by petitioner Mohd. Aslam @ Royal; that besides the incriminating voluntary statements of all the co-accused, it was concluded in the investigation that the petitioner herein namely Mohd. Aslam @ Royal was the intended receiver of the seized contraband Heroin, as such, was also arrayed as an accused having entered into a conspiracy in this illicit trafficking of the narcotics. It was finally

prayed that the petition be dismissed as the trial court has rightly framed the charge against the petitioner as an accused to face the trial.

05. Learned counsel for the petitioner has, vehemently, argued that there was no material, worth its name, on the trial court record, so as to frame charge against petitioner for the commission of offences punishable U/Ss 8/21/29 & 60 NDPS Act, as neither any contraband had been recovered from his possession nor he was found to be involved in any conspiracy or abetment; that the abandoned motorcycle, which was claimed by the NCB to be that of the petitioner, was not in his name and that, merely, the statement of the co-accused made incriminating against him, being inadmissible in view of Toofan Singh judgment passed by the Apex Court, the charge could not have been framed against the petitioner. It was finally argued that the petition be allowed and the order framing charge be set aside.

06. Learned counsel for the respondent, *ex adverso*, argued that it was not a case of only and merely, incriminating statement of the co-accused against the petitioner herein but his presence at the place of occurrence during the dead of the night on a motorcycle and his fleeing away on seeing the NCB team leaving behind his Aadhar Card and Pan Card in the Motor Cycle, were sufficient to hold that he was involved in a conspiracy with the co-accused or had abetted the commission of offence, in some manner. He further argued that there were call details record (CDR) from the cell phone of supplier namely Sukhvir Kour @ Rajvir Kour of Amritsar, who had made scores of calls to the

petitioner herein before the seizure of the contraband, on the mobile phone used by the petitioner herein.

- 07.** Heard learned counsel for the parties at length, perused the impugned order and considered.
- 08.** On perusal of the impugned order, it is found that the learned trial Court had framed charges against the accused for the commission of offences punishable U/Ss 8/21/29/60 NDPS Act. The order impugned has neither discussed the facts brought on record by the prosecution nor the plea raised by the petitioner, and the impugned order was passed in a cryptic manner without assigning reasons. Since the impugned order is not with the reasons, it appears that the learned trial Court has framed the charges in a mechanical manner, without application of mind. The grounds raised in this petition were stated to have been raised before the trial Court as well, which were not even considered, let alone addressed.
- 09.** In view of grounds raised in this petition and the fact that the same were not taken into consideration by the Court below, so as to be addressed before coming to the conclusion that the petitioner as an accused was 'prima facie' found to have committed offences punishable U/Ss 8/21/29 & 60 NDPS Act to frame charges against him, the order impugned is not sustainable, particularly, when in a contested matter, the plea raised by the learned counsel for the petitioner having not been considered before framing of charge, which is a prime stage of the criminal trial. In the aforesaid view of the

matter, this court is of the considered opinion that the impugned order is liable to be set aside.

10. Viewed thus, the petition is allowed and the impugned order dated 24.11.2025 passed by the trial Court, whereby charges were framed against the accused, is quashed to the extent of petitioner herein i.e. accused Mohd. Aslam. The matter is ordered to be remanded back to the trial Court for fresh consideration of the charge against the petitioner herein as an accused.
11. The petition is accordingly disposed of along with connected application(s).

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12. Since CRM(M) No.315/2026 clubbed with this bail application has been allowed and the matter has been remanded back to the trial Court for reconsideration of the charge, without commenting on its merits, the bail application is also disposed of with liberty to the petitioner to move bail application afresh before the trial court after consideration of the charge.
13. Bail application is accordingly disposed of.
14. This order shall be placed across both the files, copy whereof shall be forwarded to the trial court for information and compliance.

(M A CHOWDHARY)
JUDGE

JAMMU
20.07.2026
Raj Kumar

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