

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

Bail App No. 194/2025

Bashir Ahmed Nohangi

.... Petitioner/Appellant(s)

Through:- Mr. I. H. Bhat, Advocate and
Ms. Surekha Bhat, Advocate

V/s

Union of India

.....Respondent(s)

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

CORAM : HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER

20.02.2026

01. The petitioner, who is facing prosecution in NCB Crime No. 22/2022 under Sections 8/20/29/60 of the Narcotic Drugs and Psychotropic Substances Act, 1985, had earlier sought bail before the trial Court, which came to be dismissed vide order dated 23.04.2025. Aggrieved thereof, the petitioner approached this Court seeking enlargement on bail. The prosecution case, in brief, is that on 22.11.2022, acting upon reliable information, officials intercepted a vehicle bearing Registration No. JK06-3788 in which the petitioner along with a co-accused was travelling. Upon search, 19 packets of Chaaras weighing 12.200 kilograms were recovered from concealed cavities beneath the speakers fitted along the black seats on either side of the vehicle. According to the prosecution, the recovery was affected from the conscious physical possession of the petitioner, who was driving the vehicle at the relevant time. During investigation, the petitioner allegedly made a disclosure under Section 67 of the NDPS Act stating that

the contraband had been supplied by one Ghulam Nabi Kaloo and was procured from Amar Chand of Ramban upon payment of Rs. 50,000/- for trafficking. It is further alleged that the petitioner is an active participant in a Charas smuggling cartel operating in the Union Territory of Jammu & Kashmir and that properties worth Rs. 83.24 lakhs amassed by him have been seized.

02. Learned counsel for the petitioner contended that the petitioner has been in custody since 22.11.2022 and that the trial, though commenced, has progressed slowly, with only three out of seven witnesses examined over a span of more than two years. It was argued that such delay infringes the petitioner's right to speedy trial. The petitioner further assailed the prosecution case on the ground of alleged non-compliance with Section 52-A of the NDPS Act, submitting that such non-compliance vitiates the proceedings and entitles him to bail. Reliance was placed upon decisions including **Kailas vs. State of Maharashtra; 2025 INSC 1117, Bharat Aambale vs. State of Chhattisgarh; and BA No. 223 of 2020 and CrIM No. 1347 of 2020** of this Court, besides an order passed in **B.A. No. 240/2025** to canvas an argument that the petitioner is entitled to concession of bail.

03. *Per contra*, learned counsel for the respondent opposed the bail application by invoking the statutory embargo contained in Section 37 of the NDPS Act, submitting that the recovery involves commercial quantity and therefore, the stringent twin conditions for grant of bail must be satisfied. It was argued that the alleged non-compliance of Section 52-A is a matter to be established during trial and cannot be a ground for grant of

bail at this stage. Reliance was placed upon the judgment of the Hon'ble Supreme Court in **Narcotics Control Bureau v. Kashif, 2024 INSC 1045** wherein it was held that procedural irregularities relating to Section 52-A do not *ipso facto* vitiate the prosecution case at the stage of bail and that presumptions under the Act operate once foundational facts are established.

04. Having given thoughtful consideration to the rival submissions, this Court finds that the petitioner was admittedly driving the vehicle from which a substantial quantity of Charas was recovered in a concealed manner. The contraband was not recovered casually but from specially created cavities, *prima facie* indicating conscious possession. Charges have already been framed on 20.01.2024 and the petitioner has been put to trial, with three witnesses already examined. In such circumstances, it cannot be said that there are reasonable grounds to believe that the accusations are *prima facie* untrue or that the petitioner is not guilty of the offences alleged. The contention regarding delay in trial, though appealing at first blush, does not by itself establish violation of the right to speedy trial, particularly when the Sessions Court at Samba is burdened with multiple categories of serious cases and the trial is progressing.

05. The plea based on alleged non-compliance of Section 52-A also does not persuade this Court to grant bail, especially in light of the law laid down in **Narcotics Control Bureau v. Kashif**, (supra) wherein it was clarified that such procedural objections are to be adjudicated during trial in the context of admissibility and evidentiary appreciation. Reliance on **2025 INSC 1117, 2025 INSC 78** with due regards, have no application to the facts of this case, hence are distinguishable, same were rendered after trial

was over. Given the commercial quantity involved and the rigours of Section 37 of the NDPS Act, the petitioner has failed to satisfy the twin conditions necessary for grant of bail. The material on record, including the framing of charge and examination of witnesses, reinforces the existence of a *prima facie* case against him.

06. In view of the foregoing discussion, the petition lacks merit and is, accordingly, **dismissed**. However, liberty is granted to the petitioner to approach the trial Court afresh for bail, if so advised, after examination of the remaining material witnesses or upon any substantial change in circumstances.

JAMMU
RAM MURTI
20.02.2026



(SANJAY PARIHAR)
Judge