

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

(THROUGH VIRTUAL MODE)

Bail App 214/2025
CrlM 1402/2025

Reserved On: 31st of January, 2026.

Pronounced On: 3rd of February, 2026.

Uploaded On: 3rd of February, 2026.

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

Haroon Rashid, Age 24 Years

S/o Sh. Abdul Rashid

R/o Ward No.02, Rajouri

Tehsil & District Rajouri

Through his mother

Razia Begum, Age 55 years.

W/o Sh. Abdul Rashid

R/o Ward No.02, Rajouri,

Tehsil & District, Rajouri.

... Petitioner(s)

Through: -

Mr Jagpaul Singh, Advocate.

V/s

1. The Union Territory of Jammu and Kashmir

Through Station House Officer, Police Station,
Rajouri, District Rajouri.

2. The Superintendent, District Jail, Dhangri, Rajouri.

... Respondents

Through: -

Mr Banu Jasrotia, Government Advocate.

CORAM:

HON'BLE MR JUSTICE SHAHZAD AZEEM, JUDGE

(JUDGMENT)

01. The petitioner who is facing trial, before the Court of learned Special Judge NDPS Cases (Additional Sessions Judge) [the Trial Court] for allegedly commission of offence under Section 8/21/22 of the NDPS Act and

now by virtue of instant petition has approached this Court seeking his enlargement on bail mainly on the ground that the rigors of Section 37 of the NDPS Act are not attracted to the present case and, therefore, the bail application was required to be considered in terms of Section 437 of the Code of Criminal Procedure, however, while rejecting the bail application, the Trial Court failed to take into consideration this important aspect of law. Further contention of the petitioner is that since the charge-sheet has already been filed and, as such, there remains no reason or justification to keep the petitioner behind bars for an indefinite period, in that, the offences for which the petitioner is facing trial are neither punishable with death nor with imprisonment for life, but the same carries a maximum punishment of ten years.

02. Mr. Jagpaul Singh, learned counsel appearing for the petitioner, has also canvassed at the Bar, that the seriousness of the offence cannot be a sole reason for rejection of a bail application, particularly when the allegations are yet to be established, therefore, continuous incarceration of the petitioner, in such circumstances, would amount to pre-trial punishment, which is legally not tenable. The petitioner has further disputed the allegation of his having continuous involvement in offences of similar nature, in that, it is contended that nothing has been placed on record to demonstrate that he is previously involved in commission of similar nature of offences. Finally, the petitioner prayed for his enlargement on bail, keeping in view the right of liberty as recognized under the Constitution of India.

03. On the other hand, the respondents have filed objections and, while opposing the bail application after delineating the facts regarding accusation against the petitioner, went onto submit that the petitioner is also involved in various other criminal cases, particulars whereof are given as under: -

S. No. 1	FIR No. 721/2018	U/S 8(a) 2/29 NDPS Act	Police Staton Rajouri
S No.2	FIR No.468/2020	U/s 8(a) 2/29 NDPS Act	Police Station Rajouri
S. No. 3	FIR No. 36/2022	U/s 8(a) 2/29 NDPS Act	Police Station Rajouri
S. No. 4	FIR No. 468/2024	U/s 331 (1) 305 BNS	Police Station Rajouri
S. No. 5	FIR No. 481/2024	U/s 126 (2) 115 (2) 307, 191 (2) BNS .	Police Station Rajouri

04. According to the respondents, in all such cases, charge-sheets have already been laid before the competent Court of law, however, the accused continued to engage in grave criminal activities and of late has been found in possession of six grams of heroin, which, according to the respondents, demonstrates a blatant disregard for the stringent provisions of the narcotics law and poses a serious threat to public safety.

05. Mr. Banu Jasrotia, learned Government Advocate appearing for the respondents has vehemently argued that the repeated involvement of the petitioner in serious crimes indicates a likelihood of his committing further offences if released on bail, as he has a well-knit network in District Rajouri.

06. Heard learned counsel for the parties, considered the rival submissions, and perused the record.

07. Before coming to the merits of the bail petition, the facts in brief are that the petitioner was apprehended on 26th of January, 2025, by the Police Naka party while performing at Shema Crossing, DPL Crossing, and ITI Road, Rajouri, at about 1500 Hours. Since, the petitioner, was stated to be spotted by the police Naka party in a suspicious condition, who on sensing the presence of the *Naka* duty party, when tried to escape from the spot, was apprehended and on his personal search, six grams of heroin were recovered. Accordingly, a formal FIR was registered and investigation was taken up. Upon completion of the investigation, the complicity of the petitioner in the commission of offence punishable under Sections 8/21/ 22 of the NDPS Act was established. Accordingly, the charge-sheet was laid before the competent court of jurisdiction and the same, as on date, is pending on the docket of the learned Trial Court.

08. The Trial Court, while rejecting the bail application, mainly proceeded on the premise that the petitioner is a habitual offender and thus has demonstrated a blatant disregard to the orders of the Court. Accordingly, held that granting bail in a similar matter again would tantamount to condoning his conduct and granting him a license to indulge in further criminal activities.

09. Though, in the case on hand, having regard to the nature of the offence, there is no absolute statutory bar for grant of bail, nonetheless, the NDPS Act is a special statute containing stringent provisions enacted with the object to deter habitual offenders. Therefore, once it emerges from the Trial Court record that the petitioner is involved in multiple FIRs, in that event, *prima-facie*, it appears that one of the conditions of likelihood of repeating the offence would surely stare at him and also stands as bar for securing the concession of bail. It is also to be borne in mind that the trial is already underway and, thus keeping in view the accusations against the petitioner regarding his continuous involvement in a series of like cases, the Trial Court would be in a better position to appreciate the conduct of the petitioner, including his attendance, co-operation in the trial process, and any change in circumstances.

10. I am fortified in my view by the judgment of the Hon'ble Supreme Court passed in "***Neeru Yadav v. State of U.P and Anr***", (AIR 2015 SC 3703), wherein it has been held that while considering the bail application, it has to be borne in mind that as to whether there is likelihood of the offence being repeated; as also the character, behaviour, antecedents, and standing of the accused. In the said case, Hon'ble Supreme Court has authoritatively held that while considering an application for grant of bail, the criminal antecedents and activities of the accused cannot be ignored. In the said case, the Supreme Court found that the accused was involved in a number of serious criminal cases; however, the High Court, while granting bail, had

overlooked the fundamental principles governing the grant of bail. Consequently, the order granting bail was set aside by the Hon'ble Supreme Court.

11. Now turning to the case on hand, as the prosecution story goes, the petitioner is already facing as many as five FIRs involving offences of a similar nature. Therefore, surely one of the considerations of likelihood of the offence being repeated, comes in the way of the petitioner in seeking enlargement on bail at this stage.

12. In view of the foregoing analysis, the stage of the trial, and also in view of the larger interest of the society, this Court is of the considered opinion that the petitioner does not deserve the concession of bail at this stage. Accordingly, the instant bail petition is *dismissed*. However, with a liberty to the petitioner to approach the Trial Court afresh by way of a bail application, if so advised.

(SHAHZAD AZEEM)
JUDGE

SRINAGAR
February 3rd, 2026
"Showkat Khan"

i.	Whether the Judgment is approved for reporting?	Yes/ No.
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