

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

Case:- Bail App No. 202/2026
CrIM No. 1840/2026

Davinder Pal

.....Petitioner(s)

Through: Mr. Neeraj Gupta, Advocate.

Vs

UT of J&K

..... Respondent(s)

Through: Mr. Sumeet Bhatia, GA.

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER
(14.09.2026)

1. FIR No. 0071/2025 dated **11.09.2025** registered by Police Station Majalata, district Udhampur for alleged commission of offences punishable under Sections 8/21/22 of the Narcotic Drugs and Psychotropic Substances Act (NDPS), 1985 came to bear mention of three accused persons, namely, **Davinder Pal, Manjeet Singh & Vikramjeet Kumar.**

2. The accused No. 1-Davinder Pal is the petitioner in the present petition.

3. FIR narrative reads like this that on the basis of the investigation conducted, the Police Station Majalta, through its Investigating Officer, came up with a Final Police Report/Charge-Sheet No. **100/2025** dated **04.12.2025** thereby arraigning four accused persons, namely, **Vikramjeet Kumar, Davinder Pal, Mintoo Singh @ Manjeet & Avtar Singh** as four accused persons to stand trial for alleged commission of offences punishable under Sections

8/21/22/27-A/29 of the Narcotic Drugs and Psychotropic Substances Act (NDPS), 1985 read with Section 111 of the Bharatiya Nyaya Sanhita (BNS), 2023.

4. The arrest of principally named three accused persons was of same date i.e. **11.09.2025** whereas fourth accused-Avtar Singh came to suffer arrest on **19.09.2025**.

5. Upon presentation of Final Police Report/Charge-Sheet, the trial court of Additional Sessions Judge (Special Judge NDPS Cases), Udhampur came to deal with two concurrent situations i.e. of framing of charges and dealing with the bail applications of the accused persons including that of the petitioner herein-Davinder Pal.

6. In a long drawn 41 para charge framing order dated **25.07.2026**, the court of learned Additional Sessions Judge (Special Judge NDPS Cases), Udhampur came to refer in para-31 a judgment of this Court in the case of **“Abdul Hamid Vs. UT of J&K & Anr.”** disposing of **Bail Application No. 261/2024** in terms of an order dated **07.04.2025**.

7. The trial court of Additional Sessions Judge (Special Judge NDPS Cases), Udhampur came to frame charges against the accused persons for alleged commission of offences under Sections 8/21-C/22/29 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985.

8. On the other hand, while dealing with the bail application of the petitioner and three other co-accused persons, the court below

came to give a miss of mention and to deal with order dated **07.04.2025** of this Court in bail application No. **261/2024** titled **“Abdul Hamid Vs. UT of J&K & Anr.”**

9. The trial court came to reject the bail application of all the four accused by reckoning that collective quantity of the alleged narcotics recovered from three accused persons as named in the FIR, falls under commercial quantity thereby inviting application of section 29 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 by reference to which rigor of section 37 of Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 coming into instant effect in the matter of consideration for grant or non-grant of the bail.

10. In its Final Police Report/Charge-Sheet, the Investigating Officer came up with a narrative that at Naka Point, Battal where vehicles were being subjected to check and search, one vehicle bearing registration No. PB08FM/4157 coming from Ramkote towards Udhampur was stopped to find that in addition to the driver driving the said vehicle there were two co-passengers.

11. Disclosed name of the driver was Davinder Pal i.e. the petitioner herein whereas the front seat passenger was Vikramjeet Kumar and the back seat passenger was Manjeet Singh.

12. From the individual personal search of the three persons so boarding the vehicle No. PB08FM/4157, individual recovery of narcotics came to be effected which turned out to be heroine.

13. From the search of person of the petitioner, 99 grams quantity of alleged contra band was recovered whereas from the personal search of accused-Mandeep Singh also, 99 grams of alleged contra band was recovered and so is the case with personal search of accused No. 3-Vikramjeet Kumar from whom alleged recovery is that of 49 grams.

14. Admittedly, individual wise recovery of alleged contra band from the person of said three accused is more than small quantity but less than commercial quantity to qualify as an intermediate quantity and it is by that reference that learned counsel for the petitioner is said to have referred the citation of this court in the case of **“Abdul Hamid Vs. UT of J&K & Anr.”** decided in terms of order dated **07.04.2025** the facts of which case are said to bear mirror like identity with the facts of the present case in terms of manner of search and alleged recovery without any shade of difference but for the reasons not discernable from the order dated **25.07.2026** of dismissing all the bail petitions so preferred by the under-trials, the court of Additional Sessions Judge (Sub Judge NDPS), Udhampur has skipped the reference of the said case for the purpose of taking a call as to whether the bail needs to be granted in favour of the under trials or not.

15. This Court is not meaning to observe and say that the trial court of Additional Sessions Judge (Special Judge NDPS Cases), Udhampur was obliged to grant bail in favour of the accused persons but surely the Additional Sessions Judge (Special Judge NDPS Cases), Udhampur was under an obligation to refer itself to the judgment in

the case of **“Abdul Hamid Vs. UT of J&K & Anr.”** which came to be cited in the charge framing exercise that too from the end of the accused persons but suffered a miss of mention in the bail rejection order of the court of Additional Sessions Judge (Special Judge NDPS Cases), Udhampur.

16. It is here where this Court is inclined to come in indulgence by disposing of this bail application at its very inception stage by directing the court of Additional Sessions Judge (Special Judge NDPS Cases), Udhampur, to consider afresh the bail plea of the petitioner by referring to the case law in form of judgment of this Court in the case of **“Abdul Hamid Vs. UT of J&K & Anr.”** and then to pass a fresh order on merits be it of granting or refusing bail.

17. The bail application dismissed by the trial court to be restored back to its original number and then to be disposed of accordingly.

18. A copy of this order be forwarded to the Additional Sessions Judge (Special Judge NDPS Cases), Udhampur for the sake of notice and compliance.

(RAHUL BHARTI)
JUDGE

JAMMU
14.09.2026
Shivalee

Whether the order is speaking
Whether the order is reportable

Yes / No
Yes / No