

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

Bail App No. 42/2026

c/w

WP(Crl) No. 70/2025

CRM(M) No. 228/2026

Date of uploading: 27.07.2026.

Raj Mohd. @ Raju

.....Petitioner(s)/Appellant(s)

Through: Mr. I.H Bhat, Advocate with
Mr. S.H. Qazi, Advocate.

vs

UT of J&K

.....Respondent(s)

Through: Mr. P. D Singh, Dy. AG.

CORAM: HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

JUDGMENT (ORAL)

27.07.2026

- 01.** By virtue of this common order, the aforesaid petitions are proposed to be disposed of, as they arise out of the same FIR No. 64/2024.
- 02.** Petitioner is aggrieved of order dated 16.12.2025 passed by learned Special Judge NDPS Cases, Jammu, ["the trial court"] whereby he came to be charged for offences under Sections 8/21/22/29 of the NDPS Act, primarily on the ground that he has been condemned unheard and charged for offences which he never committed. Consequently, petitioner seeks his enlargement on bail.
- 03.** Before a closer look at the grounds urged in the memo of petitions, it shall be expedient to have an overview of the background facts of the case.
- 04.** As the prosecution story would unfurl, on 25.12.2024, Police Station Bus Stand, Jammu received source information that one Yaqoob Ali Bhugi, carrying a heroin-like substance, was on his way towards B.C Road, Jammu. FIR No. 64/2024 for offences under Sections 8/21/22 NDPS Act came to be registered, Yaqoob Ali came to be arrested and 408 grams of Heroin was recovered from his possession.

05. It is allegation of the investigating agency that said Yaqoob Ali, during investigation on 25.12.2024, disclosed that he had brought the contraband from Rana Gujjar of Punjab with the direction to hand over the same to Raj Mohd. @ Raju, the petitioner herein. However, when he reached B.C. Road, Jammu, he was apprehended by the Police Party of Police Station Bus Stand, Jammu along with 408 grams of heroin. The investigation culminated in the presentation of charge-sheet against accused Yaqoob Ali on 01.04.2025. However, the investigation with regard to the backward/forward linkages continued.

06. It is further case of the prosecution that petitioner was arrested in FIR No. 259/2025 of Police Station Bahu Fort, Jammu, in which 20.78 grams of heroin was recovered from his possession and in FIR No. 141/2024 of Police Station Gangyal, Jammu, 58 grams of heroin was recovered from his vehicle. On 11.09.2025, custody of the petitioner was changed from FIR No. 141/2024 to the FIR in question, i.e., FIR No. 64/2024 of Police Station Bus Stand, Jammu.

07. It is allegation of the prosecution that during investigation of the FIR in question, the petitioner disclosed that he had been involved in the sale and purchase of heroin for a considerable period with the help of Rana Gujjar of Punjab and co-accused Yaqoob Ali Bhugi. He also disclosed that about 40 days back he had concealed some narcotics along the roadside near Bahu Ki Tanki on Panjtirithi-Sidhra Road, Jammu, which he could get recovered. Pursuant to the said disclosure, 9.96 grams of heroin-like substance wrapped in a paper and white-coloured polythene, concealed beneath a stone in the forest area on his identification came to be recovered from the spot in the present FIR. The investigation thereafter culminated in the presentation of supplementary charge-sheet against the petitioner.

08. The petitioner came to be charged by the trial court on 16.12.2025 for offences under Sections 8/21/22 and 29 NDPS of Act.

09. The petitioner, after framing of the charge, approached the trial court for his enlargement on bail and vide impugned order dated 15.01.2026, petitioner's plea for emancipation came to be rejected by the trial court primarily on the ground of gravity of the accusation; Section 29 of the NDPS Act and that charge was yet to be framed against him.

10. Petitioner is aggrieved of the impugned order of charge as also rejection of the bail plea primarily on the ground that on 16.12.2025, he came to be charged by the trial court without being given an opportunity of hearing and on the basis of heroin recovered from co-accused, Yaqoob Ali. It is contention of the petitioner that from the perusal of the charge form dated 16.12.2025, nothing has been said with respect to the recovery effected from his possession in the present case.

11. It may be recalled that on 11.09.2025, custody of the petitioner was changed from FIR No. 141/2024 to the FIR in question, i.e., FIR No. 64/2024 of Police Station Bus Stand, Jammu, on the basis of statement of co-accused Yaqoob Ali. It is contention of the prosecution that during investigation of the impugned FIR No. 64/2024, petitioner disclosed that he was involved in the sale/purchase of heroin with the help of one Rana Gujjar of Punjab and co-accused Yaqoob Ali Bhugi; he had concealed some narcotics about 40 days ago near Bahu Ki Tanki on Panjtirithi-Sidhra Road, Jammu, and later 9.96 grams of heroin-like substance came to be recovered on his identification in the present case.

12. Mr. P.D Singh, learned Dy. AG representing the respondent/UT/Prosecution, when confronted with the factual position obtaining

the present case, he fairly admitted that learned trial court while framing charge against the petitioner, has not said anything about the recovery effected from his conscious possession in this case and rather proceeded to frame charge against the petitioner on the basis of 408 grams of heroin alleged to have been recovered from the conscious possession of co-accused Yaqoob Ali.

13. In the aforesaid circumstances, present petitions with the consensus of learned counsels for the parties are disposed of in the following terms:-

- i) Learned trial court shall consider the plea of charge/discharge *qua* the petitioner afresh after affording a reasonable opportunity of being heard to both the sides;
- ii) Petitioner may raise the pleas urged in WP(Crl) No. 70/2025 for consideration of the trial court;
- iii) Petitioner shall be at liberty to make an application for his enlargement on bail and learned trial court shall accord consideration to the same afresh as per the mandate of law.

14. All the petitions stand disposed of.

(Rajesh Sekhri)
Judge

Jammu
27.07.2026
Abinash