

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

Bail App No. 299/2025 c/w
WP (Crl) No. 84/2025
WP (Crl) No. 07/2026
WP (Crl) No. 20/2026
WP (Crl) No. 71/2026

Umesh Kumar

.....Applicant(s)/Petitioner(s)

Through :- Mr. Yash Agarwal, Advocate in
(Bail App No. 299/2025)
Mr. Sachin Gupta, Advocate &
Ms. Arsha Sharma, Advocate in
(WP (Crl) No. 84/2025, WP (Crl) No. 07/2026 &
WP (Crl) No. 71/2026)

v/s

UT of J&K and Another

.....Respondent(s)

Through :- Mr. Vishal Sharma, DSGI with
Mr. Karan Sharma, CGSC

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

ORDER
07.10.2026

Bail App No. 299/2025

1. In this application, filed by the applicant under Section 483 BNSS, the applicant is seeking his release on bail in Case Crime No. 02/2024 for offences under Sections 8/22/26 and 29 of NDPS Act.
2. It is submitted that prior to the filing of the instant bail application, the applicant had moved similar application before the Special Judge (NDPS Cases), Jammu [“**the Trial Court**”], but the same came to be rejected by the trial Court vide order dated 11.10.2025. The applicant seeks his release on bail, primarily, on the ground that the prosecution has not been able to collect any incriminating evidence against him during the course of investigation.

3. Attention of this Court is drawn to the first charge sheet and the supplementary charge sheet presented by the NCB before the trial Court. It is submitted that other than the confessional statement of the applicant, recorded under Section 67 of the NDPS Act, there is no other direct or indirect evidence available with the respondents to prosecute the applicant.
4. It is submitted that the applicant was arrested on 24.06.2025 and is in jail for the last more than one year despite the fact that there is not even an *iota* of evidence against him, either in first challan or the supplementary charge sheet.
5. The bail prayed for by the applicant is objected to by the respondents. It is submitted that the applicant is involved in commission of heinous offences under NDPS Act and the rigors of Section 37 of the NDPS Act are also attracted. It is submitted that in view of his confessional statement recorded under Section 67 of the NDPS Act there is enough material to prosecute the applicant.
6. Having heard learned counsel for the parties and perused the material on record, I am of the considered opinion that the applicant who has been in incarceration since 24.06.2025 deserves to be released on bail. This is so because there is no other material or incriminating evidence, collected by the prosecution except confessional statement of the applicant and other co-accused recorded under Section 67 of the NDPS Act. Mr. Vishal Sharma, learned DSGI could not point out any other evidence against the applicant. The applicant is being prosecuted on the basis of the aforesaid confessional statement made by him coupled with the similar confessional statements made by two other accused under Section 67 of the NDPS Act.

7. It is trite law that a conviction cannot be made solely on the basis of a confessional statement made by the accused under Section 67 of the NDPS Act, nor can it be based on the confessional statements made by the co-accused during the course of the investigation.
8. The legal position in this regard is well settled in the case of “*Toofan Singh vs. State of Tamil Nadu*” **2021 (4) SCC 1**. In view of the fact that there is no substantial incriminating evidence collected by the prosecution against the applicant, the rigors of Section 37 of the NDPS Act would not be attracted. It is *prima facie* a case of no evidence.
9. Without saying much, this application is allowed and the applicant is enlarged on bail subject to the following conditions: -
 - i. That he shall furnish personal bond in the amount of Rs. 1,00,000/- with one surety of the like amount to the satisfaction of the trial Court;
 - ii. That he shall appear before the trial Court on each and every date of hearing;
 - iii. The applicant shall not leave the territorial jurisdiction of the trial Court without prior permission of the trial Court;
 - iv. That he shall not directly or indirectly try to influence the prosecution witnesses in any manner whatsoever;
 - v. If the applicant has a passport, he shall surrender the same before the trial Court;
 - vi. In the event of violation of any of the conditions imposed while granting bail, the respondents may approach this Court for cancellation of the concession bail granted to the applicant under this order.
10. Before parting, I would like to make it clear that nothing said hereinabove shall prejudice the trial in any manner and shall not be taken as an expression of final opinion of this Court on the merits of the controversy in the trial.

WP (Crl) No. 84/2025, WP (Crl) No. 07/2026 & WP (Crl) No. 71/2026

1. Registry is directed to segregate these petitions from Bail App No. 299/2025 and list before a regular Bench having roster on 21.10.2026.

(Sanjeev Kumar)
Judge

JAMMU
07.10.2026
Manik

