

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) 193/2026
CrIM(477/2026) CrIM(648/2026)
c/w i)CRM(M) 32/2026
CrIM(65/2026)
ii)CRM(M) 80/2026
CrIM(197/2026).

ZAHOOR AHMAD MIR.

...Petitioner (s)

Through: Mr. Syed Aazad Ah. Andrabi, Advocate.
Mr. Sheikh Manzoor, Advocate
(CRM (M) Nos. 193/2026 & 80/2026.)
Mr. Imtiyaz Ah Rahter, Advocate (CRM (M) No. 32/2026)

VERSUS

UNION TERRITORY THROUGH POLICE STATION SHAHEED GUNJ.

Through: Mr. M. Younis Hafeez, Assisting Counsel
...Respondent(s)

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

ORDER
20-07-2026

01. The petitioners, through the medium of the instant petition, have challenged order dated 30th of December, 2025, passed by the learned Special Judge, (NDPS Cases), Srinagar, whereby charges for the commission of offences under Sections 8/20/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, and Sections 228, 229, 318 (4), 336 (3), 238 C and 111 of the Bharatiya Nyaya Sanhita, 2023, have been framed against the petitioners.
02. Heard learned counsel for the parties and perused the record of the case.

03. As per the charge-sheet, on 24th of February, 2025, on the basis of information received from PW Yusha Yousuf Mir, an Advocate by profession, to the effect that vehicle bearing registration No. JK01AX-8467, parked at Karan Nagar near OASIS School, is carrying contraband substance, the FIR was registered. The police is stated to have proceeded to the spot along with the Executive Magistrate. After calling the owner of the vehicle, namely Manzoor Ahmad Bhat, to the spot, the vehicle was subjected to search, and recovery of 452 grams of charas-like substance was effected from the boot and the back seat of the vehicle.

04. During interrogation, the owner of the vehicle, namely Manzoor Ahmad Bhat, disclosed that about twelve days prior to the occurrence, the vehicle had been taken by his friends, namely accused Mohammad Shafi Badyari and accused Toufeeque Ali. Further disclosures were made by these two accused, and involvement of accused Arshid Ah. Wani, Rouf Ahmad Mir, Bilal Ahmad Wani and Zahoor Ahmad Mir was also found. Further recovery of contraband substance was also effected from accused Mohammad Shafi and Rouf Ahmad Mir.

05. Learned counsel for the petitioners has submitted that, excepting for the disclosure statements made by the accused/petitioners before the Executive Magistrate in the presence of the police while in police custody, there is no material on record connecting the petitioners with the alleged recoveries. It has been contended that the statement of an accused recorded while in police custody before a Magistrate, other than a Judicial Magistrate 1st Class, is not admissible in evidence. It has further been contended that there was a land transaction between PW Manzoor Ahmad Bhat and the petitioners/accused, which is

supported by the material collected by the Investigating Agency. Thus even if the CDRs collected by the Investigating Agency show that the petitioners and PW Manzoor Ahmad Bhat, were in touch with each other, the same in the absence of voice recording may not be enough to implicate them in the charge for offence of criminal conspiracy under Section 29 of the NDPS Act.

06. It has also been contended that the learned trial court has miserably failed to apply its mind to the material on record inasmuch as it has proceeded to frame charges against the petitioners under Section 111 of the Bharatiya Nyaya Sanhita, which relates to offence of organized crime, when there are no allegations in this regard in the charge-sheet. It has been contended by the learned counsel for the petitioners that the petitioners had filed detailed written arguments before the learned trial court, but none of the contentions raised by the petitioners have been dealt with by the learned trial court while passing the impugned order.

07. If we have a look at the impugned order passed by the learned trial court, it appears that the learned trial court has not taken trouble of applying its mind to the material on record. I am conscious of the fact that while framing charges, a criminal court is not expected to give detailed reasons for framing of charges against the accused but it is equally well settled law that it is the duty of the trial court to apply its mind to the material collected by the investigating agency during the course of investigation. The order framing charges must reflect that the trial court has applied its mind to the material on record. The trial court has to sift the material with a view to find out whether or not there are grounds for presuming that accused has committed the offences of which he is so be charged. The trial court cannot act as a mouth piece of the Investigating Agency and frame

charges for all the offences mentioned in the charge-sheet. In the present case, the learned trial court has not proceeded in the matter as warranted under law.

08. For the foregoing reasons, without expressing any opinion on the merits of the case, the impugned order passed by the learned trial court is set aside and the matter is remanded to the learned trial court for fresh consideration of the matter upon hearing the parties. The learned trial court shall do well to record brief reasons while dealing with the contentions that may be raised by the parties before the said court.

09. The parties are directed to appear before the learned trial court on the date fixed by the said court.

10. The petitions are disposed of along with connected CrIMs.

11. A copy of this order be sent to the learned trial court for information and compliance.

(Sanjay Dhar)
Judge

SRINAGAR
20-07-2026
Showkat Khan