

**IN THE HIGH COURT OF JAMMU & KASHMIR AND
LADAKH AT SRINAGAR**

*Reserved on: 05.08.2026
Pronounced on: 14.08.2026
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*Whether the operative
part or full judgment is
pronounced: **Full***

**CRM(M) No.217/2026
c/w
Bail App No.64/2026**

SAJAD AHMAD GUROO **... PETITIONER(S)**

*Through: - Mr. Jahangir Ahmad Malik, Advocate.
Mr. Altamash Rashid, Advocate.*

Vs.

UT OF J&K & ORS. **...RESPONDENT(S)**

Through: - Mr. Bikram Deep Singh, Dy. AG.

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

JUDGMENT

01. By this common judgment, afore-titled two petitions filed by Sajad Ahmad Guroo, one under Section 528 of BNSS challenging order dated 04.12.2025 by passed by the learned Additional Sessions Judge, Budgam, whereby charges have been framed against him and the other under Section 483 of BNSS seeking bail in a case arising out of FIR No.108/2025 for offences under Section 8/15/29 of NDPS Act registered with Policed Station, Chadoora, are proposed to be disposed of.

02. As per the prosecution case, on 15.06.2025, the Police received an information from reliable sources that co-accused Mohammad Altaf Parray, has concealed some contraband substance, namely, Poppy Straw, in his house for the purposes of selling the same. On the basis of this information, FIR No.108 of 2025 for offences under Section 8/15/29 of NDPS Act was registered and investigation was set into motion.

03. During the course of investigation, the residential house of accused Mohammad Altaf Parray was raided by a police team in the presence of the Executive Magistrate. Accused Mohammad Altaf Parray, during his interrogation, made a disclosure that he has concealed four bags of Poppy Straw in the cow shed and that he has concealed two more bags of Poppy Straw in a Santro car bearing No.JK13C-3899, which is lying parked in the compound. He further disclosed to the police that he is in the process of selling this contraband substance to Muzaffar Ahmad Dar, Sajjad Ahmad Guroo (the petitioner herein), Mohammad Ismail Dar and Farooq Ahmad Dar, who were also present on spot. On the basis of disclosure made by accused Mohammad Altaf Parray, the police recovered four bags of Poppy Straw from the cow shed belonging to said accused, whereas they

also recovered two bags of Poppy Straw from Santro vehicle bearing No.JK13C-3899, which was lying parked in the compound. The recovered contraband substance was found to be weighing 80 kilograms and 830 grams. The same was seized and samples were drawn, which were also sealed. After obtaining the report of the FSL, the investigation was concluded and it was found that offences under Section 8/15/29 of NDPS Act are made out against the accused, including the petitioner herein, who were arrested during investigation of the case.

04. The learned trial court, after analyzing the charge sheet and the material annexed thereto and after hearing the parties, came to the conclusion that, *prima facie*, offences under Section 8/5/29 of NDPS Act are made out against the accused, including the petitioner herein. Accordingly, impugned order dated 04.12.2025 came to be passed by the learned trial court.

05. The petitioner has challenged the impugned order on the grounds that the charges framed against him are based upon inadmissible confessional statement of co-accused Mohammad Altaf Paray, therefore, the same is not sustainable in law. It has been contended that disclosure/confessional statement made by a co-accused in

presence of Executive Magistrate, while in police custody, is not admissible in law and that there is no other evidence on record connecting the petitioner with the alleged crime. It has been further contended that merely because the petitioner was found to be present in the premises from where the contraband substance was allegedly recovered, it cannot be stated that he is involved in the conspiracy relating to possession of contraband substance. It has further been contended that solely on the basis of CDRs showing contact between the accused persons would not form a basis for framing charge against the petitioner.

06. The respondent-State has filed its objections to the petitions in which it has been submitted that there is sufficient material on record to establish involvement of the petitioner in the alleged crime. It has been contended that during investigation of the case, the Investigating Agency has collected sufficient material that would show that the petitioner was part of the conspiracy relating to possession and sale of contraband drugs, which fall in the category of commercial quantity. It has been submitted that because the rigours of Section 37 of the NDPS Act are attracted to the present case, therefore, the petitioner cannot claim bail in his favour.

07. I have heard learned counsel for the parties and perused record of case including the trial court record.

08. The learned trial court, being a Court of Sessions, is to be governed by the procedure laid down for framing of charge or discharge of an accused, as provided under Sections 250 and 251 of BNSS. As per the provisions contained in sub-section (2) of Section 250, if upon consideration of record of the case and the documents submitted therewith and after hearing the submissions of the accused and the prosecution, the Judge considers that there is no sufficient ground for proceeding against the accused, he has to be discharged. Similarly, as per Section 251(1) of BNSS, if after such consideration and hearing, the Judge is of the opinion that there is ground for presuming that the accused has committed an offence, he shall frame the charge in writing against the accused. The provisions contained in Sections 250 and 251 of BNSS are in *pari-materia* with the provisions contained in Sections 227 and 228 of the Cr.P.C. Therefore, the legal position enunciated by the Supreme Court and this Court with reference to the provisions contained in Sections 227 and 228 of Cr. P. C is equally applicable to the provisions contained in Sections 250 and 251 of BNSS.

09. It is a settled law that at the time of considering the issue with regard to charge or discharge of an accused, the Court is not expected to meticulously analyze the material on record, but it has to sift the evidence for the limited purpose of ascertaining whether or not there is a ground for presuming that the accused has committed an offence. It is true that the Court has not to act as a mouthpiece of the investigating agency while framing the charge and it has to apply its independent mind to the material collected by the investigating agency but it is equally true that while undertaking such an exercise, the Court is not expected to go into the reliability and veracity of the material collected by the investigating agency. The same has to be taken to be correct at its face value. It is a settled law that a trial judge has not to weigh the evidence but he has only to form an opinion whether a *prima facie* case is made out. Even a grave suspicion is enough to frame charges.

10. With the aforesaid legal position in mind, let us now advert to the facts of the present case. The contraband substance, which falls within the parameters of commercial quantity, has been recovered from the premises belonging to co-accused Mohammad Altaf Parray. There is sufficient

material on record in the form of statements of witnesses

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recorded under Section 161 of Cr .P. C as also in the form of disclosure statement of the said accused, to support this fact. The contraband substance has not been recovered either from the personal custody of the petitioner or from the premises owned by him. Even the car, from which a part of the consignment was recovered, does not belong to the petitioner. However, there is evidence on record to show that the petitioner was also present on spot at the time when the recovery of the contraband substance was effected by the police in presence of the Executive Magistrate. It is true that mere presence of the petitioner on spot at the time of raid of the premises of co-accused Mohammad Altaf Parray may not be good enough reason to frame a charge against him, but in the present case, there are statements of independent witnesses, including those of PW Mohammad Maqbool Dar, recorded under Section 183 of BNSS, PW Irshad Majeed, PW Manzoor Ahmad Ganai and PW Yaqoob Ahmad Kumar recorded under Section 180 of BNSS, wherein they have categorically stated that the recovered contraband was in the process of being sold to accused Mohammad Ismail Dar, Farooq Ahmad Dar, Muzaffar Ahmad Dar and the petitioner herein. The evidence relating to the allegation that the petitioner was

present on spot with a view to purchase the contraband substance from the main accused Mohammad Altaf Parray, is not based merely upon the confessional statement of accused Mohammad Altaf Parray but it is also based upon statements of independent witnesses, whose names are mentioned hereinbefore. Thus, the contention of the petitioner that his involvement in the conspiracy to possess and sell commercial quantity of contraband substance is merely based on inadmissible confessional statement of co-accused Mohammad Altaf Parray, is contrary to record. The same, therefore, cannot be accepted.

11. Even the Executive Magistrate, PW Arshad Majeed Matto, while making his statement during trial of the case, has not only confirmed presence of the petitioner and other accused on spot at the time of the raid, but he has also stated that the contraband substance was meant for sale by accused Mohammad Altaf Parray to other accused including the petitioner herein.

12. Besides the statements of afore-named independent witnesses showing the presence of the petitioner on spot with a view to purchase the contraband substance from main accused, we have also on record the CDR of all the

accused. The details contained therein show that all the accused were in touch with each other around the relevant time. The CDR details may not, by themselves, be sufficient to implicate the petitioner, but, nonetheless, the same lend credence to the statements of the independent witnesses, as mentioned hereinbefore. Thus, there was sufficient material before the learned trial court to presume that the petitioner is involved in the alleged offences and, therefore, it was justified in framing charges against the petitioner. The impugned order framing charges against the petitioner does not call for any interference from this Court.

13. That takes us to the prayer of petitioner for grant of bail. Once it has been *prima facie* shown that the petitioner is involved in commission of an offence relating to possession/sale of commercial quantity of contraband substance, the provisions contained in Section 37 of the NDPS Act come into play. Therefore, unless it is shown by the petitioner that there are reasonable grounds to believe that he is not guilty of the offence for which he has been charged, he cannot be admitted to bail. In the present case, it has been shown that there is sufficient material on record to show involvement of the petitioner in the offence relating to possession/sale of commercial quantity of contraband

substance. Therefore, the very first condition for grant of bail as contained in Section 37 of the NDPS Act is not fulfilled in the present case. The petitioner, as such, cannot be granted bail at this stage.

14. For the foregoing reasons, both the petitions are dismissed being devoid of merit.

(Sanjay Dhar)
Judge

Srinagar,
14.08.2026

“Bhat Altaf-Secretary”

Whether the **judgment** is reportable: **YES/NO**

