

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

Bail App 150/2025

ASIM ...Appellant/Petitioner(s)

Through: Mr. Ajay Pratap Singh, Advocate

Vs.

UNION TERRITORY THROUGH POLICE ...Respondent(s)

STATION MAHARAJ GUNJ (HOME)

Through: None

CORAM:

HON'BLE MR JUSTICE SANJAY PARIHAR, JUDGE

ORDER

11.09.2026

1. The petitioner seeks enlargement on bail in FIR No. 25/2023 registered at Police Station Maharaj Gunj, Srinagar, for offences punishable under Sections 8, 22, 29, 27-A and 68-E of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act").
2. The prosecution case, briefly stated, is that on 18.07.2023, during routine Naka checking at Babadamb Road near Hotel Azher, Srinagar, a police party intercepted co-accused Shabir Ahmad Sheikh. He was allegedly found carrying a black-coloured bag containing 4,944 capsules, comprising 618 strips of Spasmo-Proxyvon Plus, stated to be psychotropic substance/contraband. During investigation, the prosecution claims to have discovered a link between the co-accused and the present petitioner. It is alleged that the co-accused had procured the consignment from the petitioner and that, between April 2023 and July 2023, monetary transactions aggregating to Rs. 2,53,850/- took place between them. The prosecution further relies upon call-detail records and

banking transactions to contend that the petitioner and the co-accused remained in constant contact and that the petitioner was not merely peripherally connected with the alleged transaction but was instrumental in arranging and supplying the contraband. The petitioner was arrested on 12.09.2023 and has remained in judicial custody thereafter.

3. Learned counsel for the petitioner submits that no contraband was recovered from the petitioner and that he was neither in physical nor conscious possession thereof. It is urged that the prosecution seeks to implicate him essentially on the basis of banking transactions, which, according to the petitioner, were ordinary business transactions and had no nexus with any illicit activity. It is further contended that the prosecution has failed to establish the requisite chain of custody of the seized substance and has also failed to furnish adequate particulars regarding the pharmaceutical manufacturer of the drug in question. The petitioner additionally alleges that, prior to his arrest, he was not informed of the grounds thereof.
4. Ld. counsel has also pressed into service the period of incarceration already undergone by the petitioner and the likelihood of the trial taking considerable time. Reliance has been placed upon *Mohd. Muslim alias Hussain v. State (NCT of Delhi) 2023 INSC 311* and *Narcotics Control Bureau v. Lakhwinder Singh 2025 SCC OnLine SC 366* to contend that the statutory restrictions governing bail under the NDPS Act cannot be applied in a manner resulting in indefinite incarceration, particularly where the trial is unlikely to conclude within a reasonable period.

5. Per contra, the respondent opposes the petition. It is submitted that the recovery made from the co-accused constitutes commercial quantity and that the material collected during investigation establishes a live and proximate link between the petitioner and the recovered consignment.
6. According to the prosecution, the call-detail records disclose that the petitioner and the co-accused were in constant communication, while the banking records disclose monetary transactions corresponding with the period during which the alleged procurement and supply of the contraband took place. The prosecution contends that the consignment travelled from Delhi to Srinagar after having been procured from the petitioner. Reliance has also been placed upon *Gurwinder Singh v. State of Punjab, CRM-M-39348-2021*, to submit that prolonged incarceration, by itself, does not confer an indefeasible right to bail where the accused is unable to satisfy the statutory requirements governing grant of bail.
7. Heard learned counsel for the parties and perused the material placed on record. The material collected during investigation indicates that the co-accused had allegedly been procuring drugs for a considerable period from a medical shop situated in the Jamia Masjid/Darya Ganj area of Delhi, the ownership whereof was traced during investigation to the present petitioner. The prosecution further alleges that the co-accused transferred money from his bank account to the account of the petitioner and that there were repeated transactions between them. The investigation further attributes to the co-accused previous purchases of Spasmo-

Proxyvon Plus from the petitioner and alleges that, shortly before the seizure in question, he again travelled to Delhi and purchased a substantial quantity from the petitioner. The eventual recovery comprised 618 strips of Spasmo-Proxyvon Plus from the possession of the co-accused.

8. Of significance at this stage are the monetary transactions aggregating to Rs. 2,53,850/- between April 2023 and July 2023.

The prosecution case is that these amounts were transferred by the co-accused to the petitioner and were followed, in close temporal proximity, by the recovery of the consignment from the co-accused. At the present stage, these circumstances cannot be viewed in isolation. Read together with the other material collected during investigation, they prima facie disclose a live link between the petitioner and the co-accused. The contention that no recovery was affected from the petitioner cannot, by itself, conclude the matter in his favour at the stage of consideration of bail. The prosecution case is not founded merely upon physical possession but upon the petitioner's alleged participation in the procurement, sale and supply of the substance ultimately recovered from the co-accused. Whether such allegations are ultimately proved is, of course, a matter for trial. At this stage, however, the Court is required to assess whether the material is such as would enable the petitioner to overcome the statutory restrictions applicable to the grant of bail.

9. The quantity involved is stated to be commercial quantity.

Consequently, the prayer for bail has to be considered in the light of the restrictions contained in Section 37 of the NDPS Act. The

Court must, *inter alia*, be satisfied that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that he is not likely to commit an offence while on bail. The satisfaction contemplated under Section 37 is necessarily tentative and does not entail a meticulous appreciation of the evidence as would be undertaken at trial. Nevertheless, there must be material before the Court capable of furnishing reasonable grounds for believing that the accusation is *prima facie* untenable.

10. In the present case, the petitioner has sought to explain the monetary transactions with the co-accused as ordinary business transactions. However, no *prima facie* material has been placed before the Court at this stage to lend support to that explanation. This assumes significance because the banking transactions are not the sole circumstance relied upon by the prosecution; they are sought to be read conjointly with the call-detail records, the alleged prior dealings between the parties, and the recovery subsequently effected from the co-accused. It is undoubtedly open to the petitioner to establish his defence during trial and to demonstrate that the transactions were legitimate and wholly unconnected with the alleged contraband. Such defence cannot be prejudged at the stage of bail. Equally, however, for the limited purpose of Section 37, the material presently available does not enable this Court to record reasonable grounds for believing that the petitioner is not guilty of the offences alleged against him. The Court is conscious of the petitioner's period of incarceration and of the constitutional importance of a speedy trial. Prolonged pre-trial detention is a relevant consideration and cannot be treated as inconsequential

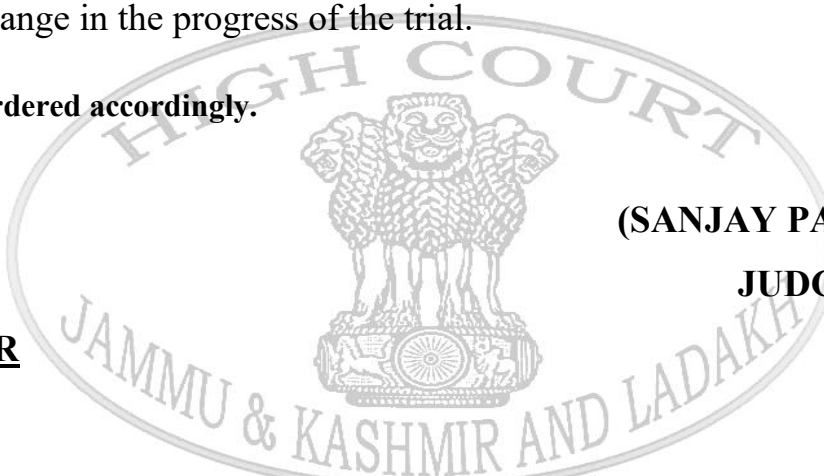
merely because the prosecution invokes offences under the NDPS Act. At the same time, the question has to be examined in the factual setting of the present case. As per the petitioner's own case, seven witnesses have already been examined. The trial is pending before the Special Court dealing with NDPS cases at Srinagar. Although the said Court is stated to have a pendency of 861 cases, the record indicates that the present trial is progressing and that material witnesses have already been examined. In these circumstances, the period of custody, though substantial, cannot presently be viewed independently of the nature of the allegations, the quantity involved, the stage of the trial and the statutory requirements of Section 37 of the NDPS Act. The petitioner has not, on the material presently before the Court, made out a case warranting departure from the statutory embargo.

11. The material collected during investigation prima facie indicates that the petitioner's alleged role is not merely peripheral. The banking transactions, call-detail records and the alleged course of dealings between the petitioner and the co-accused constitute circumstances which, at this stage, cannot be said to be devoid of evidentiary significance. It is reiterated that the observations made herein are confined strictly to the adjudication of the present bail petition and shall not be construed as an expression of opinion on the merits of the prosecution case. The trial Court shall evaluate the evidence independently and uninfluenced by any observation contained in this order. Having regard to the nature and gravity of the accusations, the commercial quantity involved, the material collected during investigation, the progress of the trial, and the

statutory restrictions contained in Section 37 of the NDPS Act, this Court finds no ground to interfere with the order declining bail to the petitioner.

12.The bail petition is, accordingly, **dismissed**. It is, however, made clear that dismissal of the present petition shall not preclude the petitioner from moving a fresh application for bail in the event of any material change in circumstances, including any material change in the progress of the trial.

13.Ordered accordingly.



(SANJAY PARIHAR)
JUDGE

SRINAGAR
11.09.2026
Shabroz

Whether the order is speaking: Yes/No
Whether the order is reportable: Yes/No