

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

CRM(M) No. 760/2026
CrIM No. 1724/2026

Union Territory Through Police Station Karnah
...Appellant(s)/Petitioner(s)
Through: Ms. Nowbahar Khan, Assisting counsel vice
Mr. Bikdramdeep Singh, Dy. AG

Vs.

Ishtiyag Ahmad Badan
...Respondent(s)
Through:

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

ORDER
18.09.2026

1. The Union Territory of Jammu and Kashmir has assailed the order dated 27.06.2026 passed by the Trial Court, whereby bail has been granted to the respondent in case FIR No. 87/2023, registered at Police Station Karnah for offences under Sections 8/21-29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act).

2. Learned counsel for the petitioner submits that the Trial Court has failed to appreciate the settled position of law that the contraband allegedly recovered from the respondent falls within the category of commercial quantity and, therefore, the rigours of Section 37 of the NDPS Act are attracted, thereby placing a statutory embargo on the grant of bail unless the conditions prescribed therein are satisfied.

3. It is, however, fairly conceded by learned counsel for the petitioner that the FIR pertains to the year 2023 and that the charge-sheet was also laid in the same year. It is further not disputed that, before enlarging the respondent on bail, the Trial Court had already examined as many as twelve prosecution witnesses.

4. The Trial Court, while considering the application for bail, found that the evidence relating to the alleged recovery was not free from doubt, particularly as the independent eyewitness had resiled from the prosecution case. Though the respondent is alleged to have been found in possession of 790 grams of heroin, which falls within the category of commercial quantity, a perusal of the impugned order reveals that the Trial Court granted bail at a stage when a substantial number of prosecution witnesses had already been examined.

5. When confronted with the fact that, for the purposes of deciding the bail application, the Trial Court had considered the evidence already led by the prosecution, learned counsel for the petitioner could not offer any plausible explanation as to how the discretion exercised by the Trial Court could be said to be erroneous, perverse, or contrary to the material available on record.

6. Where the evidence led before the Trial Court has been considered in the context of the statutory requirement of “reasonable grounds”, the discretion exercised by the Trial Court, in the facts and circumstances of the case, cannot be said to suffer from

perversity, non-application of mind, or any error warranting interference by this Court.

7. In view of the aforesaid circumstances, this Court finds no merit in the present petition. The same is, accordingly, dismissed. The learned Trial Court shall proceed with the trial in accordance with law, uninfluenced by any observations made herein, which are confined solely to the consideration of the question of bail.

8. Dismissed, along with the connected CrIM(s).

(SANJAY PARIHAR)
JUDGE

Srinagar
18.09.2026
"Imtiyaz"

