Serial No. 50

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

CRM(M) No. 1229/2026

Date of pronouncement: 23.10.2026
Date of uploading: 27.10.2026.

U.T. of J&K through
Police Station, Reasi

…..Appellant(s)/Petitioner(s)

Through: Mr. Dewakar Sharma, Dy. AG

vs

Nasir Hussain S/o Abdul Rehman
R/O Sunjawan, Bathindi
Tehsil & District Jammu

….. Respondent(s)

Through:

CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE

ORDER
(23.10.2026)

1. The petitioner, through the medium of present petition has invoked jurisdiction of this Court under Section 439(2) CrPC, 1973 r/w Section 483(3) Bharatiya Nagarik Suraksha Sanhita (BNSS) for quashment/cancellation of bail granted by the Court of learned Principal Sessions Judge, Reasi ["**the trial Court**"] vide Order dated 06.10.2026 passed in File No. 124/2026 ("**the impugned order**") titled "Nasir Hussain Vs. UT of J&K" arising out of FIR No. 06/2023 of Police Station, Reasi for offences under Sections 8, 20, 25 & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short "**the NDPS Act**").

2. The main grounds urged by the petitioner–UT of J&K are that the accused has repeatedly sought his release on short-term/interim bail on humanitarian grounds, pleading that his father is suffering from cancer and requires his presence and assistance. The accused had earlier been

granted short-term/interim bail on humanitarian grounds for the said purpose and, upon expiry of the period of bail, surrendered before the jail authorities. However, the accused again approached the learned Trial Court seeking interim bail, which was strongly opposed by the Prosecution, *inter alia*, on the grounds that he had already availed himself of the concession of interim bail on the same grounds; that no fresh medical emergency or exceptional circumstance had been established; that other family members were available to look after his parents; and that the quantity of contraband allegedly recovered from the respondent, involved a commercial quantity, thereby attracting the rigours of Section 37 of the NDPS Act, however, despite the aforesaid objections, the learned Trial Court, without adequately considering the stage of the trial, wherein only 13 out of 16 prosecution witnesses had been examined, passed the impugned order granting the respondent short-term bail for a period of 10 days, from 07.10.2026 to 16.10.2026, on the same grounds previously urged by him for grant of bail. It is contended that this constitutes the third concession of short-term/interim bail granted to the respondent during the pendency of the same trial on substantially the same humanitarian ground, without recording any fresh exceptional circumstance or change in the medical condition warranting such repeated indulgence.

3. Mr. Dewakar Sharma, learned Dy. AG, appearing for the petitioner-UT of J&K submits that the order impugned is legally unsustainable as the trial Court has not recorded the nature and gravity of the accusation, particularly the quantity of contraband allegedly recovered

from the respondent, involved a commercial quantity, thereby attracting the rigours of Section 37 of the NDPS Act; that the petitioner was granted earlier short-term/interim bail on humanitarian grounds vide order dated 12.01.2026 for one month and vide order dated 29.04.2026 till 25.05.2026 for second time. Having already availed the said concession, he cannot seek repeated interim bail on the very same grounds without demonstrating any fresh developments which is nothing but an attack to by-pass the rigour of Section 37 of the NDPS Act.

4. Heard learned counsel for the petitioner and perused the material available on record.

5. The respondent admittedly had been granted short bail for a period of 10 days w.e.f. 07.10.2026 to 16.10.2026 on a humanitarian ground for the reason that his father was suffering from malignancy. The only contention raised by the petitioner is that this is the third time that the respondent had been admitted to this kind of bail without recording any fresh exceptional circumstances or change in the medical condition warranting such repeated indulgence. The petitioner's case is not that the respondent had, on any occasion, contravened any of the conditions imposed while granting such interim bail so as to obstruct his trial or tamper with the prosecution evidence, in any manner whatsoever.

6. In such a situation, even if the respondent was alleged and charged to have in his possession commercial quantity of the contraband which attracts Section 37 of the NDPS Act, which creates a rigour for grant

of bail in ordinary course, is not disentitled to seek short bail on humanitarian grounds. It is not the petitioner's case that the father of the petitioner, suffering from a deadly disease, has been recovered so as to not warrant any concession to the respondent so as to attend his ailing father in this difficult situation. The period of short bail, granted by the trial Court is already over and the petitioner has not shown or placed on record any further order that the interim bail may have been extended by the trial Court.

7. Viewed thus, in the peculiar facts and circumstances of the case, as narrated hereinabove, the petitioner has failed to make out a case for intervention of this Court, to set aside the impugned order.

8. The petition is, thus, ***dismissed.***

(M A CHOWDHARY)
JUDGE

Jammu
23.10.2026
Vishal Sharma

Whether the order is reportable?: Yes/No

Whether the order is speaking?: Yes/No