

**IN THE COURT OF
SPECIAL JUDGE, NDPS CASES, JAMMU**

File No.: 192/2023

CNR No.: JKJM010049282026

Date of Institution: 02.12.2023

Date of Order: 06.08.2026

UT of J&K

Through

Police Station, ANTF Jammu.

....Complainant

v.

S.K. Shafi & anr.

....Accused

FIR No. 05/2023 PS ANTF, Jammu

U/S 8/20/29 NDPS Act, 1985

ORDER

1. Nemo for UT of J&K. Accused have been produced virtually from District Jail, Amphalla, Jammu. Ld. Counsel for accused present. PW-10 ASI Gurdeep Singh No. EXK-931977 has come from Srinagar to get his deposition recorded but there is no Prosecutor available in the Court. The accused are incarcerated in this case from 23.06.2023.
2. There are around 80 criminal matters listed before this court today as is reflected in the cause list but when the cases were taken up, it was told by one constable rank police personnel attached with prosecution that Ld. SPP Mr. Sunil Sharma has gone on 04 days leave and the department has not made any alternative arrangement. The reason assigned for not deputing any Prosecutor for the leave period of Ld. SPP is

incapacity of Director General (Prosecution) who has reportedly been stripped off power by Home Deptt. to assign charge to other prosecutor even for leave period.

3. At this stage, DDP, Jammu Mr. Rajesh Gill has appeared before the Court and produced Communication No. HOME-Pros/21/2026 (CC:7734605) dated 22.07.2026 of Home Department and in furtherance to which Director General (Prosecution) has issued Order No. DG-Pros/Estt/7169527/7722 dated 23.07.2026 curtailing power of Director Prosecution, Jammu & Kashmir and all DDP's of Jammu. Bare perusal of both the letters would reveal that DG (Prosecution)'s office has given out-of-context interpretation to the communication of Home Deptt. which in no manner curtails the power of the office of DG (Prosecution) to make temporary arrangement during leave period. It appears to be a knee-jerk reaction to the communication from Home Department.
4. The Court is not interested to know the reason of failure, but it is totally unacceptable that this Court where in every case, one of the party is State/ UT which is supposed to be represented by Prosecutor as per BNSS, is left high and dry, virtually non-functional merely because one of the Public Prosecutor has proceeded on leave and Department of Prosecution is confused about their authority to make alternate arrangement for leave period.
5. Needless to mention that there are people who are incarcerated in Jail waiting desperately for proceedings in their trial. There are others who are before the Court to seek immediate relief on account of certain exigencies. There is misc. work where the Prosecutor is required to be heard before passing orders, same cannot be kept hostage to administrative

whataboutery/ jiggling of Department of Prosecution or their tiff with Home Department over power sharing. There are 12 PWs present in the Court today who will ironically go unexamined because of unavailability of the Prosecutor.

6. It was necessary that DG (Prosecution) or Director (Prosecution) should have granted leave only after getting nod from Home Department if it was so required, though I don't agree on this count in view of the plain contents and language of communication No. HOME-Pros/21/2026 (CC:7734605) dated 22.07.2026 issued by Home Department which speaks of 'Transfer, Posting & Appointment' of Prosecutors.
7. **Be that as it may**, DG (Prosecution) and Director (Prosecution) who have sanctioned leave to Mr. Sunil Sharma are directed to ensure that an alternate arrangement is made for the leave period and a Prosecutor is made available in the Court tomorrow to conduct prosecution, failing which contempt of Court proceedings shall be undertaken against them for impeding the Court proceedings and thwarting the daily working of this Court by their acts of omission and commission.
8. **A copy of this order shall be sent to all the concerned including DG (Prosecution), Director Prosecution and DDP Jammu for necessary compliance through special messenger/ e-mail.**
9. Put up the case on 07.08.2026.

Announced
06.08.2026


Special Judge (NDPS Cases)
Jammu