

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

Bail App No. 22/2026

Dated: 16th of September, 2026.

Manzoor Ahmad Hajam (42 Years)
S/O Ghulam Ahmad Hajam
R/O Tundpoora, Hajin
Through his brother, namely,
Abdul Rouf Hajam.

... Petitioner(s)

Through: -
Mr Erfaan Akbar, Advocate.

V/s

- 1. Union Territory of Jammu & Kashmir,**
Through Police Station Hajin,
District Bandipora.
- 2. Superintendent, Central Jail, Srinagar.**

... Respondent(s)

Through: -
Mr Jehangir Ahmad Dar, Government Advocate.

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

(JUDGMENT)

01. The Petitioner, through the medium of this Petition, seeks short term bail on medical grounds in connection with FIR No. 104/2024 registered by Police Station Hajin, Bandipora for the commission of offences punishable under Sections 8/ 22 of the Narcotic Drugs and Psychotropic Substances Act [NDPS Act].

02. The Petitioner claims to have moved a similar application before the Court of learned Additional Sessions Judge, Bandipora [Trial Court], which was allowed in terms of Order dated 11th of February, 2025 and same was extended from time to time, however, the plea for further

extension of interim bail, ultimately, came to be rejected by the Court below vide Order dated 27th of December, 2025.

03. The main ground urged by the Petitioner is that he is suffering from multiple and serious ailments, including calcific pancreatic lesion (tumor), for which the Petitioner has been advised to undergo FNAC procedure as well as biopsy test. It is also urged that the rigors of Section 37 of the NDPS Act are not attracted in the present case, in view of the medical condition of the Petitioner. On the strength of the afore-stated grounds, it is prayed that the Petitioner be admitted to the concession of bail on medical grounds.

04. The Respondents have filed detailed Reply/ Objections opposing the Petition. It is contended that the Petitioner is part of a larger conspiracy involving the supply and trafficking of narcotic drugs into society with particular deleterious consequences for the youth; that sufficient material has been collected during investigation to establish the complicity of the Petitioner, as such, he does not deserve the concession of bail.

05. Learned Counsel appearing for the Petitioner would argue that the Petitioner, who has been detained and is under incarceration since his arrest in the NDPS case registered vide FIR No. 104/2024 at Police Station Hajin, Bandipora has been suffering of calcific pancreatic lesion (tumor) which is stage 1st of a developing cancer and that he had been advised to undergo FNAC procedure as well as biopsy test and being in custody, the Respondents do not take him to the Hospital for treatment on the plea of having no security at some times, as such, he misses his treatment in the SKIMS Hospital where he had been undergoing treatment during the period when he was admitted to interim bail by the Trial Court. He has prayed that regardless of the rigors of Section 37 of the NDPS Act, the Petitioner, being

entitled to, be admitted to bail on medical and humanitarian grounds, subject to any of reasonable conditions.

06. The learned Counsel for the Respondents, *ex-adversus*, argued that the Petitioner who is not otherwise entitled to bail in view of the rigors of Section 37 of the NDPS Act has devised this method for being enlarged on bail on medical ground being manufactured by him saying that he has been suffering from a pancreatic stage-I cancer, which is being projected as a tumor. He, however, submits that the Petitioner had remained enlarged on bail earlier, having been granted by the Trial Court, for a period of almost eleven months and that he did not undergo those tests which do not take much of the time, however, now again seeks to be enlarged on bail for the same purpose, though the fact of the matter is that he had been taken to the specialized Hospital-SKIMS for his treatment on various occasions, as and when advised by the Doctors. In this context, the learned Government Advocate has produced health Status Report of the Petitioner obtained from Senior Medical Officer, Central Jail, Srinagar and from SKIMS, Soura.

07. Heard and considered.

08. The Prosecution case, in brief, is that on, 13th of November, 2024, the Incharge *Naka*, Head Constable-Jehangir Ahmad [No. 103/BPR], accompanied by Constable-Irshad Ahmad [No. 723/BPR], Constable-Sajad Ahmad [No. 1111/BPR], Special Police Officers-Bilal Ahmad [No. 561/(SPO)] and Gh. Mustafa [No. 842/(SPO)], while performing *naka* checking duty at Kathpora near Cement Bridge and conducting routine checking of vehicles and pedestrians, a pedestrian was noticed approaching from Vijpora towards Kathpora, carrying a blue-colored bag in his right hand in a suspicious manner; that the *naka* party signaled him to stop for checking, who, upon noticing the police party, attempted to escape from the spot by turning back, however, due to the prompt and tactful action of the *naka* party, he was apprehended on the spot; that, upon questioning, the

individual disclosed his identity as Manzoor Ahmad Hajam S/O Late Gh. Ahmad Hajam R/O Tundpora, Hajin, i.e., the Petitioner herein; that, thereafter, the said bag was subjected to search by the Incharge *Naka* in presence of the deployed officials, which resulted in the recovery of 20 bottles of *Codeine Phosphate* and *Triprolidine Hydrochloride* syrup, each containing 100 ml; that the accused failed to furnish any valid authority, license or satisfactory explanation for possessing the said contraband substance, whereafter, preliminary investigation revealed that the accused was carrying the said contraband for the purpose of illicit sale among local youth, with the ulterior motive of deriving unlawful monetary gain, thereby promoting drug abuse and addiction in the area and endangering the lives of the younger generation

09. It is the further case of the Prosecution that, accordingly, FIR No. 104/2024 under Sections 8/22 of the NDPS Act was registered at Police Station Hajin and investigation of the case was set into motion; that, during the course of investigation, the Investigating Officer inspected the place of occurrence, prepared the site plan and the contraband seized on the spot, comprising 20 bottles of *Codeine Phosphate* syrup, under proper seizure memo, besides, statements of material witnesses were recorded in accordance with law; that, on the basis of the statements of witnesses and other corroborative evidence collected during investigation, offences punishable under Section 8/22 of the NDPS Act were found substantiated against the accused/ Petitioner herein, who was, resultantly, arrested.

10. On conclusion of the investigation, the Petitioner has been sent up for trial for alleged trafficking of a manufactured drug. The Trial Court, after drawing *prima facie* satisfaction, has drawn up formal charges against the Petitioner for the offenses under Sections 8/22 of the NDPS Act.

11. In “**Narcotics Control Bureau V. Kashif, 2025 (2) Supreme Court 268**”, the Hon’ble Supreme Court, while dealing with the mandate of

Section 37 of the NDPS Act, observed that, where the offence is punishable with minimum sentence of 10 years, the accused shall generally be not released on bail and that **“negation of bail is the rule and its grant is an exception”**. It was further held that the provisions of Section 37 are mandatory in nature and that the recording of the twin findings contemplated therein is a *sine qua non* for grant of bail. A similar view has been expressed by the Hon’ble Supreme Court in **“State of Meghalaya V. Lalrintluanga Sailo & Anr., 2024 (6) Supreme 568”**.

12. In **“Union of India V. Vigin K. Varghese, 2025 SCC Online (SC) 2440”**, the Hon’ble Supreme Court observed:

“17. The High Court then, on the strength of those premises, recorded a finding that there exist reasonable grounds to believe that the applicant is not guilty of the alleged offence, treating prolonged incarceration and likely delay as the justification for bail. Such a finding is not a casual observation. It is the statutory threshold under Section 37 (1) (b) (ii), which would disentitle the discretionary relief and grant of bail, must necessarily rest on careful appraisal of the material available. A conclusion of this nature, if returned without addressing the prosecution’s assertions of subjective control and antecedent involvement, risks trenching upon appreciation of evidence, which would be in the domain of trial court at first instance.”

From the above dictum, it is pellucid that Section 37 of the NDPS Act is mandatory in nature. When the statutory conditions contained therein are pitted against the plea of prolonged incarceration, likely delay in the trial, or the medical condition of the accused, as in the present case, the former must take precedence.

13. It is well settled that while considering the question of bail, the Court must, *inter alia*, take into account likelihood of the offence being repeated as also the character, behavior, position and standing of the accused. Reference, in this regard, may be made to the Judgment of the Hon’ble Supreme Court in **“Neeru Yadav V. State of UP & Anr., AIR 2015 SC 3703”**.

14. Coming to the contention of the Counsel for the Petitioner that the Petitioner is entitled to bail on medical grounds, it has come on record that the Petitioner was earlier admitted to bail by the Trial Court vide Order dated 11th of February, 2025, purely on medical grounds in an application moved by the Petitioner, which came to be extended from time to time. The application of the Petitioner for grant of bail, however, was finally dismissed in terms of Order dated 27th of December, 2025 by the Trial Court, by holding that having regard to the gravity of the offence, the statutory embargo under Section 37 of the NDPS Act, the antecedents and conduct of the accused, including the fact that medical bail was earlier availed and thereafter assailed, and the absence of any conclusive medical opinion necessitating release, the Court is satisfied that no case for grant of medical bail is made out.

15. From the perusal of the Health Status report of the Petitioner, as produced by the learned Government Advocate, it transpires that the Petitioner had been taken to SKIMS for advanced diagnostics on 30th of April, 2026 as he was scheduled for advanced diagnostics on 1st of May, 2026, and despite owing to a upcoming holiday on account of Budha Purnima on 1st of May, 2026, the prison administration claims to have strategically executed the escort one day prior on 30th of April, 2026 and CE-MRI as well as MRCP were successfully conducted at SKIMS, Soura. It is further seen from the Status Report that the Petitioner was escorted to SKIMS on 6th of July, 2026 for institutional admission ahead of a highly critical scheduled Celiac Plexus Block and ERCP procedure set for 7th of July, 2026, during his pre-procedure clinical follow up, however, the Petitioner explicitly refused to undergo the ERCP, citing structural discomfort and strong personal reluctance and demanded an immediate postponement on multiple times viz. 6th of July, 2026, 23rd of July, 2026, 10th of August, 2026 and 24th of August, 2026. The Health Status Report further discloses that the Petitioner was again escorted to SKIMKS on 31st of August, 2026, where he was admitted under MRD No. 1716801; Ward/

Bed No. SP/07, underwent Celiac Block successfully on 2nd of September 2026 and was discharged back on 3rd of September, 2026, however, his ERCP procedure was delayed as the Petitioner did not sign the consent showing reluctance. Finally, the Health Status Report concludes that presently the Petitioner is healthy/ medically better and his treatment can efficiently be continued under judicial custody.

16. The Petitioner, admittedly, was accused of having in his possession commercial quantity of the contraband, as such, there is a statutory bar under Section 37 of the NDPS Act to grant bail in his favour, unless the Court comes to the satisfaction that there are reasons to believe that he has not committed the offence. The bail on medical grounds, however, can be granted in view of the health condition of an accused, regardless of the said statutory bar. The Petitioner had already been granted interim bail on medical grounds by the Trial Court, which was extended for almost spanning over eleven months and the Petitioner had sufficient time to get conducted tests, including ERCP and Biopsy, however, he did not get those tests conducted and, finally, the Trial Court did not extend the bail any further and the Petitioner has, now, approached this Court seeking the same relief. From the medical record produced by the Respondents, it is clear that the Petitioner had been delaying the conducting of the tests, on one pretext or the other, and had, on many occasions, sought deferring of the tests, however, lastly, the tests were conducted, including Biopsy and, as per the Biopsy report, there are no signs of any malignancy in his pancreas, so as to come to the conclusion that he is suffering from the deadly disease which cannot be treated or cured during custody. The Petitioner has been detained in Central Jail, Srinagar, which is nearer to the SKIMS Hospital and, in case of any exigency, he can be taken to the SKIMS Hospital and, if advised by the doctors attending on him, he can be admitted for treatment at the said Hospital.

17. In the light of the aforesaid Health Status Report, it is found that the Petitioner is being repeatedly provided treatment at a specialized Hospital-SKIMS, Soura, which is not far-off from the premises of Central Jail, Srinagar, where the Petitioner is presently lodged, therefore, this Court is of the considered opinion that the ground of medical condition for seeking bail at this stage does not appear to be made out. It is made clear that the observations made or findings recorded hereinabove shall not be construed as an expression of opinion with regard to the merits of the trial and that the same shall only be confined to the disposal of the instant Petition.

18. For the foregoing reasons, the present Bail Application is **dismissed**. The Respondents are, however, directed to provide the Petitioner appropriate medical care as per requirement. The Petitioner shall be continuously examined on daily basis by the Jail Doctor and shall be taken for specialized treatment, in case required, without any delay, so that his health is not compromised.

(M. A. CHOWDHARY)
JUDGE

SRINAGAR

September 16th, 2026

"TAHIR"

i. Whether the Judgment is approved for reporting?

Yes/ No.