S. No. **15**
Regular Cause List

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

CRM(M)/914/2026

Date of pronouncement:- 31.10.2026
Uploaded on:- 12 .11.2026

Manzoor Ahmad Banday …Appellant/Petitioner(s)

Through: Mr. Aazim Mushtaq Pandith, Advocate.

Vs.

Union Territory of J&K Through SHO P/S Baramulla and Another ...Respondent(s)

Through:

CORAM:

HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER
31.10.2026

01. The petitioner, who figures as an accused in FIR No. 214/2025 registered at Police Station Baramulla for offences punishable under Sections 8/21/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the "NDPS Act"), has called in question the order dated 24.10.2026 passed by the Trial Court, whereby his application under Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as the "BNSS"), seeking directions for audio-video recording of his custodial interrogation, preservation of the relevant CCTV footage and compliance with Section 105 of the BNSS in the event of any search or seizure, came to be dismissed.

02. The case projected by the petitioner is that he was taken into custody by the police on 20.10.2026 in the presence of his wife and other family members. It is alleged that, at the time of his apprehension, the police attempted to attribute a recovery of contraband to him, but refrained from doing so when his family members raised objections. According to the petitioner, notwithstanding his apprehension on 20.10.2026, the police have shown his arrest on 21.10.2026 at PDD Colony, Baramulla.

03. Apprehending that the investigating agency might fabricate a recovery or procure an incriminating disclosure through coercive methods, the petitioner approached the learned Trial Court seeking directions for audio-video recording of his interrogation and preservation of the CCTV footage relating to his arrest and subsequent custody. He also sought enforcement of the safeguards contemplated under Section 105 of the BNSS in the event of any search or seizure during further investigation.

04. The learned Trial Court, by the impugned order dated 24.10.2026, declined to grant the relief sought. The Trial Court observed that Section 105 of the BNSS does not contemplate continuous audio-video recording of every interrogation undertaken by the investigating agency. It further held that an accused cannot, by asserting a plea of false implication or alibi, require the investigating agency to collect evidence in a particular manner or compel the Court to supervise the ordinary course of investigation. The Trial Court accordingly dismissed the application.

05. Learned counsel appearing for the petitioner has assailed the impugned order primarily on the ground that the learned Trial Court

failed to appreciate the object underlying the statutory safeguards governing investigation and the binding directions issued by the Hon'ble Supreme Court concerning installation and maintenance of CCTV cameras in police stations. Reliance has been placed upon the judgments reported as AIR 2008 SC 907 and AIR 2021 SC 64.

06. It is contended that the duty of an investigating officer is not confined to collecting incriminating material for securing a conviction, but extends to conducting a fair, impartial and objective investigation with a view to discovering the truth. According to learned counsel, where an accused raises a specific apprehension of fabrication of evidence or coercive interrogation, the Court ought not to decline protective directions merely on the premise that the accused cannot dictate the course of investigation.

07. Before examining the merits of the aforesaid submissions, it would be appropriate to notice the circumstances in which the petitioner came to be implicated in the case.

08. The record reveals that FIR No. 214/2025 was registered following receipt of information regarding transportation of narcotic substances in commercial quantities. Acting upon such information, a police party of Police Station Baramulla intercepted vehicle bearing registration No. JK05L-7844 at the GMC Parking Area, Baramulla. During the search of its occupants, 540 grams of heroin was allegedly recovered from Tahir Ahmad Khan and 424 grams of heroin from Sobia Bano.

09. During investigation, the aforesaid accused are stated to have disclosed that the contraband had been supplied to them by Mohammad Ubaid Raja, who was subsequently arrested. The

investigating agency claims that further leads obtained during interrogation of Mohammad Ubaid Raja indicated the involvement of the present petitioner, Manzoor Ahmad Banday, and co-accused Shahid Qayoom alias Sameer, in supplying the narcotic consignment for onward delivery and collection of funds.

10. Upon completion of the initial investigation, the police presented a charge-sheet against Tahir Ahmad Khan, Sobia Bano and Mohammad Ubaid Raja for offences under Sections 8/21/29 of the NDPS Act. The petitioner and the other co-accused were not apprehended at that stage. According to the investigating agency, despite issuance of notice under Section 67 of the NDPS Act, the petitioner did not associate himself with the investigation and remained unavailable, necessitating recourse to judicial process for securing his presence.

11. The petitioner was subsequently arrested on 21.10.2026, as reflected in the police record. Following his arrest, the Station House Officer concerned approached the competent Court under Section 193(9) of the BNSS seeking permission to undertake further investigation concerning the petitioner's alleged involvement. Such permission was granted, whereafter the petitioner moved the application giving rise to the present proceedings.

12. Having considered the submissions advanced on behalf of the petitioner and examined the material placed on record, this Court is of the view that the controversy essentially raises the following questions:

> (i) Whether an accused, during the pendency of investigation, can insist upon continuous audio-video recording of his custodial interrogation as a matter of statutory right under Section 105 of the BNSS;

(ii) Whether the directions issued by the Hon'ble Supreme Court regarding installation and operation of CCTV cameras in police stations confer an enforceable safeguard requiring preservation of footage in appropriate circumstances; and

(iii) Whether, on the facts of the present case, the petitioner has established sufficient grounds warranting interference with the order passed by the learned Trial Court.

13. At the outset, it needs to be emphasised that investigation of a cognizable offence is ordinarily within the domain of the investigating agency. The police are entrusted with the statutory responsibility of collecting evidence, examining witnesses, pursuing investigative leads and ascertaining the circumstances in which an offence is alleged to have been committed. The Court does not ordinarily substitute its own assessment for that of the investigating officer in determining the manner in which such investigation should proceed.

14. Equally well settled is the proposition that the discretion available to an investigating agency is neither absolute nor immune from judicial scrutiny. The power to investigate must be exercised fairly, reasonably and in conformity with the procedure established by law. An accused may not dictate the course of investigation, but is nevertheless entitled to insist that the investigation does not transgress the safeguards guaranteed by the Constitution and the applicable statutory provisions. These two principles are complementary and must be applied in their proper perspective.

15. In the present case, the investigating agency claims to have obtained information regarding the petitioner's involvement during the

investigation of an offence involving substantial quantities of heroin. Whether such information ultimately constitutes legally admissible evidence sufficient to establish the petitioner's complicity is a matter to be determined at the appropriate stage. Nevertheless, the existence of an investigative lead may justify further inquiry, subject to the limitations imposed by law.

16. Section 193(9) of the BNSS recognizes the power of the investigating agency to undertake further investigation even after submission of a police report. The presentation of a charge-sheet against certain accused does not necessarily bring the entire investigative process to an irreversible conclusion, nor does it preclude further investigation concerning the involvement of other persons. Cognizance is taken of the offence and not merely of the persons initially arrayed as accused. Therefore, the fact that the petitioner was not charge-sheeted along with the other accused does not, by itself, render further investigation concerning his alleged involvement impermissible.

17. The investigating agency having approached the competent Court and obtained permission for further investigation, no illegality can be inferred merely from its decision to question the petitioner regarding the source, movement and intended destination of the narcotic consignment. The legality of the methods employed during such investigation, however, remains subject to independent scrutiny in accordance with law.

18. This brings the Court to the principal contention concerning Section 105 of the BNSS. The said provision deals with recording of the process of search and seizure through audio-video electronic means. Its object is to introduce transparency and accountability in

investigative procedures involving search of places and seizure or taking possession of articles or property, including preparation of the seizure list and its authentication by witnesses.

19. A plain reading of Section 105 makes it evident that the provision is directed towards the process of search and seizure falling within its statutory ambit. It does not, in terms, impose an independent obligation upon the investigating agency to continuously record every question put to an accused or every answer furnished by him during custodial interrogation. The requirement of recording a search or seizure cannot, by interpretative extension alone, be equated with a general statutory mandate for uninterrupted audio-video recording of all interrogations.

20. This distinction is material. The petitioner cannot invoke Section 105 of the BNSS as an independent source of an unconditional right to demand continuous audio-video recording of his interrogation. At the same time, the investigating agency cannot avoid compliance with the said provision in respect of any search or seizure to which it applies. The absence of a statutory mandate for recording every interrogation does not dilute the obligation to record search and seizure proceedings in the manner prescribed by law.

21. Learned counsel for the petitioner has also placed reliance upon the directions issued by the Hon'ble Supreme Court concerning CCTV surveillance in police stations, particularly the judgment in *Paramvir Singh Saini v. Baljit Singh and others*, reported as AIR 2021 SC 64. The said judgment was rendered in the context of safeguarding the fundamental rights of persons subjected to arrest, detention and

interrogation, and ensuring institutional accountability against custodial violence and abuse of authority.

22. The Hon'ble Supreme Court directed that CCTV cameras be installed in police stations at specified locations, including entry and exit points, lock-ups, corridors and other designated areas. The directions also contemplate audio-video recording capabilities, maintenance of the equipment and preservation of recorded footage. The responsibility for ensuring the proper functioning and maintenance of such systems has been placed upon the authorities concerned.

23. The aforesaid directions, being founded upon the protection of fundamental rights under Article 21 of the Constitution of India, are binding and cannot be treated as mere administrative recommendations. Their object is to ensure that the exercise of police powers, particularly in circumstances involving deprivation of personal liberty, remains subject to appropriate safeguards and accountability.

24. However, a distinction must be maintained between the obligation of the police authorities to install, maintain and operate CCTV systems in accordance with the directions of the Hon'ble Supreme Court and the claim of an accused to insist upon a separate, continuous and individually supervised audio-video recording of every stage of interrogation. The former is a binding institutional safeguard, whereas the latter cannot be claimed as an automatic consequence of the directions without regard to their scope and the circumstances of the case.

25. The directions concerning CCTV surveillance do not confer upon the investigating agency an exemption from scrutiny merely because an

investigation is pending. Equally, they do not authorise the Court to assume routine control over the questioning of every accused. Where credible material discloses custodial violence, coercion, tampering with recordings or a specific violation of the safeguards prescribed by law, the competent forum may intervene and issue appropriate directions. Such intervention, however, must rest upon a legally sustainable foundation and not upon apprehension alone.

26. Reverting to the facts of the present case, the petitioner alleges that he was apprehended on 20.10.2026 and that the investigating agency attempted to plant contraband upon him. The police record, on the other hand, reflects his arrest on 21.10.2026. The petitioner has thus raised a dispute concerning the circumstances and date of his arrest, besides expressing apprehension regarding the manner in which further investigation may be conducted.

27. These allegations are undoubtedly serious in nature. If substantiated, an attempt to fabricate recovery or procure an incriminating statement through coercion would constitute a grave departure from the requirements of a fair investigation. Nevertheless, the seriousness of an allegation cannot dispense with the necessity of some supporting material where the Court is called upon to issue directions founded upon an alleged or anticipated abuse of investigative authority.

28. In the present case, apart from the averments made in the petition, no independent material has been brought to the notice of this Court to substantiate the allegation that the police attempted to plant contraband upon the petitioner at the time of his apprehension. No affidavit of the wife or any other family member stated to have witnessed the alleged occurrence has been placed on record. Nor has

any contemporaneous material been shown which, at this stage, would lend prima facie support to the allegation of fabrication of recovery or coercive interrogation.

29. In these circumstances, the Court would not be justified in proceeding upon the assumption that the investigating agency has already acted unlawfully or that it necessarily intends to adopt impermissible methods during further investigation. The apprehension expressed by the petitioner, in the absence of supporting material, cannot by itself constitute sufficient ground for imposing a special regime of continuous judicial supervision over his interrogation.

30. It is equally necessary to clarify that the alleged failure of the petitioner to cooperate with the investigation, or his alleged evasion of the process of law, does not diminish the constitutional and statutory protections available to him upon arrest. Such conduct may be relevant to the course of investigation and other proceedings in accordance with law, but cannot justify coercive interrogation, unlawful detention or denial of procedural safeguards. The protections guaranteed by law are not dependent upon the conduct of an accused prior to his arrest.

31. The petitioner is required to be produced before the competent Magistrate in accordance with law, and the legality and necessity of his custody remain subject to judicial scrutiny. The remanding Magistrate is not merely concerned with the formal production of an accused, but is also required to ensure that continued detention is authorised in accordance with law and that the safeguards governing custody are not rendered illusory.

32. Thus, the petitioner's apprehension that he may be subjected to coercion cannot be accepted, on the present material, as a sufficient basis for granting the particular directions sought by him. This, however, does not foreclose his right to approach the competent forum if any specific instance of custodial misconduct, unlawful coercion or violation of the applicable safeguards is brought to light.

33. As regards preservation of CCTV footage, the legal position requires separate consideration. The directions issued in *Paramvir Singh Saini* (supra) impose obligations concerning the functioning of CCTV systems and retention of recordings. Where footage relevant to an allegation of custodial misconduct exists and is liable to be overwritten or destroyed, its preservation may assume significance for ensuring the effectiveness of the safeguards contemplated by the Hon'ble Supreme Court.

34. Nevertheless, the record placed before this Court does not establish whether CCTV cameras were installed at the particular location where the petitioner claims to have been apprehended, or whether any footage of that incident was actually recorded. The Court cannot presume the existence of footage of an occurrence at an unidentified or unverified camera location. Insofar as CCTV coverage within the police station is concerned, the investigating agency remains bound by the directions of the Hon'ble Supreme Court regarding operation, maintenance and retention of recordings, independently of the outcome of the present petition.

35. The dismissal of the petitioner's application cannot, therefore, be understood as authorizing the investigating agency to disregard its obligations concerning CCTV surveillance or to destroy, suppress or

tamper with any recording which is otherwise required to be maintained or preserved in accordance with law. The petitioner's failure to establish a case for the particular directions sought does not absolve the authorities of their pre-existing legal duties.

36. The reliance placed upon the judgments cited by learned counsel for the petitioner does not advance his case to the extent of establishing an unconditional entitlement to continuous audio-video recording of custodial interrogation. The principle that investigation must be fair, objective and directed towards discovering the truth is beyond dispute. The question, however, is whether that principle, in the circumstances presently established, warrants the specific judicial intervention sought by the petitioner. For the reasons already recorded, this Court is unable to answer that question in the affirmative.

37. The learned Trial Court was, therefore, justified in declining to direct continuous audio-video recording of the petitioner's interrogation merely on the basis of his apprehension of false implication. The Court was also justified in recognising that the accused cannot ordinarily determine the manner in which the investigating agency should pursue lawful investigative leads. The said conclusion must, however, be understood subject to the overriding requirement that the investigation be conducted fairly and in strict conformity with the statutory and constitutional safeguards.

38. This Court is conscious that judicial restraint in matters of investigation cannot be equated with judicial indifference to allegations of abuse of police powers. The dividing line lies in the nature of the intervention sought and the material placed in support

thereof. While the Court ought not to assume the role of an investigating officer, it remains under an obligation to protect the administration of criminal justice against demonstrable illegality, arbitrariness and infringement of fundamental rights.

39. In the case at hand, the petitioner has not placed sufficient material on record to justify the extraordinary directions sought in relation to the conduct of his interrogation. The investigation is still in progress and the competent Court has permitted further investigation concerning his alleged involvement. At this stage, there is no adequate basis for concluding that the investigating agency is acting in violation of law or that the ordinary safeguards available to the petitioner are incapable of affording him protection.

40. For the foregoing reasons, this Court finds no illegality, perversity or jurisdictional error in the ultimate conclusion reached by the learned Trial Court which would warrant interference in the present proceedings. The impugned order dated 24.10.2026, therefore, calls for no interference.

41. It is, however, clarified that the investigating agency shall remain bound to comply with the requirements of Section 105 of the BNSS wherever applicable, as also the directions issued by the Hon'ble Supreme Court concerning installation, functioning and maintenance of CCTV cameras and preservation of recordings. The petitioner shall be at liberty to avail himself of such remedies as may be permissible in law in the event of any specific violation of his constitutional or statutory rights.

42. Any observation made herein concerning the petitioner's alleged involvement, conduct or the material collected during investigation is

confined to the adjudication of the present petition and shall not be construed as an expression of opinion on the merits of the criminal case. The competent Court shall consider all questions arising during subsequent proceedings independently and uninfluenced by the observations made herein.

43. Subject to the aforesaid observations and clarifications, the petition is found to be devoid of merit and is, accordingly, **dismissed**. The order dated 24.10.2026 passed by the learned Trial Court is upheld.

44. Disposed of accordingly.

(Sanjay Parihar)
Judge

SRINAGAR
31.10.2026
Shabroz

Whether the order is speaking: Yes
Whether the order is reportable: Yes