Serial No. 4
Supplementary Cause list

HIGH COURT OF JAMMU & KASHMIR AND LADAKH AT JAMMU

(Through Virtual Mode)

Bail App 273/2025 CrlM 1482/2026

Reserved on : 12.11.2026
Pronounced on : 19.11.2026
Uploaded on : 19.11.2026
Whether the operative part or full judgment is pronounced: Full

Nitesh Kumar
S/O M.P. Morya
R/O Gobind Garh Tehsil Soniwal Ludhiana Punjab

…Appellant(s)/Petitioner(s)

Through: Mr. Vishal Kotwal, Advocate

Vs.

Union Territory of Jammu and Kashmir
Through Police Station Bagh-e-Bahu Jammu

...Respondent(s)

Through: Mr. Pawan Dev Singh, Dy.AG

CORAM:
HON'BLE MS. JUSTICE MOKSHA KHAJURIA KAZMI, JUDGE.

ORDER

1. By this application, the applicant, namely Ajay Gupta, seeks bail in connection with FIR No. 31/2020, registered at Police Station Bagh-e-Bahu, Jammu, for offences punishable under Sections 8/15/29 of the NDPS Act. The applicant was arrested in connection with the aforesaid case and is presently lodged in District Jail, Amphalla.

Brief Facts:

2. The case set up by the applicant is that he has been facing trial in connection with the alleged recovery of 10 plastic bags containing poppy straw, weighing 185 kilograms in total, with each bag containing 18.5 kilograms. The contraband was recovered on 08.03.2020, when, acting

upon secret information, the police party intercepted a truck bearing registration No. PB13BE-0768 at a naka/checking point on the National Highway near Narwal, Jammu, while the vehicle was proceeding towards Jammu from Srinagar. The truck was being driven by accused Nitish Kumar, while the other person namely Parmod Kumar, was accompanying him as a co-driver/cleaner. The vehicle, along with the contraband recovered therefrom, was seized by the police.

3. Upon completion of the investigation, the charge-sheet came to be presented before the Court of the learned Principal Sessions Judge on 11.06.2020. The accused were charge-sheeted by the said Court on 08.09.2021. It is further stated that only 4 witnesses have been examined so far, out of total 11 witnesses cited in the challan.

4. The applicant had approached the Court of learned Special Judge (NDPS Cases) Jammu, seeking concession of bail, which was rejected by the said Court vide order dated 08.07.2025, on the ground that rigor of Section 37 NDPS Act applies to the instant case, the offence is serious, impacting the society at large.

5. Now, the applicant has approached this Court by way of the present application, seeking concession of bail, *inter alia*, on the ground that the grounds of arrest were not furnished to him at the time of his arrest, in violation of the mandate of Section 50 of the CrPC and Article 22 of the Constitution of India. It is further contended that the applicant has remained in prolonged incarceration, the trial has not progressed at the desired pace and its conclusion is likely to take considerable time,

therefore, the continued detention of the applicant, particularly the delay in conclusion of the trial, constitutes an additional ground warranting grant of bail, so the applicant deserves to be admitted on bail.

6. Upon notice, the respondents filed their reply, wherein it is stated that the applicant cannot claim bail as a matter of right, particularly when he is involved in a heinous offence. It is further stated in the reply that on 08.03.2020, information was received at Police Station Bagh-e-Bahu, Jammu, to the effect that one truck bearing No. PB13BE-0768, driven by Nitesh Kumar S/O M.P. Morya Yadav R/O Gobind Garh, Ludhiana, Punjab along with conductor Parmod Kumar, was coming from Srinagar towards Jammu carrying a huge quantity of Poppy Straw and on receipt of such information, a naka was laid on the NH-44 road and the aforementioned truck was intercepted and during checking of the vehicle, 10 plastic bags (toras) of poppy straw, weighing 185 Kgs were recovered and Case FIR No. 31/2020, under Sections 8/15/29 NDPS Act was registered at Police Station Bagh-e-Bahu against the accused.

7. It is further submitted that drug abuse is a serious social menace having far-reaching consequences, particularly for the younger generation. It is, therefore, contended that, considering the nature and gravity of the offences alleged against the applicant, he is not entitled to the concession of bail.

8. Heard learned counsel for the parties, considered the submissions made and perused the material available on record, including the order of rejection of bail, passed by learned Special Judge (NDPS Cases) Jammu,

as also the statements of the witnesses recorded in the case, as available on the file.

9. The admitted position of the case is that the applicant/accused has been arrested in the year 2020 and is languishing in jail as on date, having completed more than 06 years in prison so far, for his alleged involvement in case FIR No. 31/2020. The accused has been alleged to have been transporting 185 Kgs of Poppy Straw in a truck moving from Srinagar towards Jammu, when he was apprehended on the NH-44 nearby Narwal, on 08.03.2020. The poppy straw was laden underneath the stones and clay loaded in the truck.

10. Consequent to the above, the charge-sheet against the accused has been presented before the competent court of law for the commission of offences punishable in terms of Sections 8/15/29 and the trial commenced.

11. For the purposes of bringing clarity to the records, it needs to be noted here that the applicant had preferred an application for interim bail before the trial court, which stands rejected and the applicant subsequently approached this Court with the bail application in hand. The applicant, interestingly, pleads in the application filed on **09.10.2025** that only 4 witnesses out of 9 cited prosecution witnesses have been examined so far, while as the trial court in its order dated **08.07.2025**, much prior to the date of filing of instant application, rejecting the bail of the accused, has recorded in paragraph No. 14, that out of 11 prosecution witnesses (should have been 9 prosecution witnesses), only two

witnesses are yet to be examined, meaning thereby, that 9 prosecution witnesses (should have been 7 prosecution witnesses) have already been brought on record.

12. During the course of arguments, the Court was informed that the prosecution cited only 9 witnesses, who have all deposed and the evidence has been closed, the accused have subsequently sought time to bring evidence in defence in March 2026, which has also been closed. The trial is concluded and the learned counsel for the parties are only required to address their arguments in the case to have the judgment delivered.

13. In view of the conclusion of the trial, this Court is not required to go into the merits of the case, as that may prejudice either of the parties and the expression of opinion by this Court may influence the mind of the trial court. Therefore, it would not be appropriate to consider the case of the applicant for his release on bail at this stage, as the final verdict, consequent to the full dressed trial, is expected anytime soon.

14. I am fortified in my view with the judgment of the Hon'ble Apex Court in case titled "*Dablu Kujur Vs. The State of Jharkhand 2024 INSC 197*", wherein the Court has held as under:

> *"3. During the course of arguments, it was apprised to the Court that the trial is at the fag end and almost all the witnesses have been examined by the prosecution except one witness.*
> *4. In view of the above, we are not inclined to release the appellant on bail, more particularly, when the trial is at the fag end."*

15. Accordingly, the present application is disposed of, with a direction to the trial court to conclude the arguments and pass a judgment thereupon

within a period of 15 days, from the date a copy of this order is made available to it.

16. The bail application stands disposed of accordingly, along with connected application(s), on the above lines.

17. Registry is directed to convey this order to the trial court for compliance.

(MOKSHA KHAJURIA KAZMI)
JUDGE

SRINAGAR:
19.11.2026
"Adil Ismail"

- Whether the Order is Reportable? Yes/No
- Whether the Order is Speaking? Yes/No

HIGH COURT
JAMMU & KASHMIR AND LADAKH