



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

Bail App No. 103/2025
CrlM No. 614/2025

Reserved on: 17.02.2026
Pronounced on: 24 .02.2026
Uploaded on: 24 .02.2026

*Whether the operative part or full judgment is
pronounced-**Full Judgment***

Angrez Singh S/O Khem Raj
through father Khem Raj
R/O Paraei Panchari, Udhampur

.....Appellant(s)/Petitioner

Through: Mr. Ram S. Chouhan, Advocate.

Vs

1. **Union Territory of Jammu & Kashmir**
through Superintendent, District Jail,
Ambphalla, Jammu
2. Station House Officer,
Police Station ANTF, Jammu

..... Respondent(s)

Through: Mr. Pawan Dev Singh, Dy. AG

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

01. Petitioner, through the medium of this petition under Section 483 of BNSS, 2023, seeks grant of bail in a case registered at Police Station ANTF, Jammu vide FIR No. 18/2022, for commission of offences punishable under Sections 8 & 15 of NDPS Act.

02. Brief facts of the case as revealed are that on 01.12.2022, information was received through reliable sources at Police Station ANTF, Jammu that a truck bearing registration No.JK21-4771 driven by one Angrez Singh S/O Khem Raj R/O Panchari, Udhampur, with criminal intention, who had concealed large



quantity of Poppy Straw in the said truck is on its way from Kashmir Valley to outside of J&K UT via Mansar Road Samba; that on this information case FIR No.18/2022 U/Ss 8/15 NDPS was registered at PS ANTF Jammu and investigation was entrusted to Inspector Meenu Sharma of said Police Station; that upon search of the truck, which was loaded with apple boxes, in presence of Executive Magistrate (Tehsildar) Pangdore, poppy straw packed in multicoloured plastic bags concealed under Apple Boxes was found and same was seized; that the whole incident was photographed; that the recovered poppy straw was weighed and total weight of all recovered 22 plastic bags containing Poppy straw substance was found to be 548.490 Kg; that out of 22 bags, 02 samples weighing 200 grams each were extracted, marked and sent for chemical analysis to FSL Jammu; that as per FSL report, morphine was detected in all samples exhibit Nos. A-504/2022 to A-525/2022 as such seized material was identified as Poppy straw (plant material of Papaver somniferum); that on the basis of above facts and circumstances, recovery of 552.280 Kgs of Poppy straw i.e. commercial quantity from the possession of the accused, statement of witnesses recorded u/s 161 CrPC and as per the investigation conducted, offence u/s 8/15 NDPS Act was established against the accused person namely Angrez Singh, applicant herein; that the applicant moved the court of Additional Sessions Judge, Samba (hereinafter 'trial court') for grant of bail; that the trial court vide its order dated 05.03.2025 rejected the bail application of the applicant. This is how the present application came to be filed by the applicant, seeking release on bail.

03. Applicant seeks admitting him to bail for being released on the ground, that he is under custody for over three years and two months without conclusion



of trial, which amounts to violation of his fundamental right to a speedy trial, guaranteed under Article 21 of the Constitution of India; that the Supreme Court in unequivocal terms held in a host of decisions that prolonged pre-trial detention without adjudication constitutes a grave miscarriage of justice; that as many as 20 witnesses have been cited in the challan before the trial court and all of them are official witnesses, however, just 3 prosecution witnesses have been examined; that no recovery of contraband was made from the applicant and no direct evidence has been adduced by the prosecution against him, not even a single prosecution witness has made any incriminating statement against the applicant. Lastly, it is prayed that the bail application be allowed and applicant be granted bail on the conditions which may be imposed by this court.

04. Status report stands filed on behalf of the respondent, wherein it is stated that charges against the accused stood framed on 07.07.2023 and after framing of charges, prosecution has examined as many as 7 witnesses so far out of 20 listed prosecution witnesses.

05. Heard and considered.

06. Learned counsel for the applicant argued that the Trial Court vide order dated 05.03.2025 rejected the bail application of the applicant merely on the ground that contraband allegedly recovered from the applicant is of commercial nature and had invoked the embargo of Section 37 of the NDPS Act, which is in teeth of the decision of the Supreme Court in the case of '**Union of India v. K. A. Najeeb**', (2021) 3 SCC 713; that in view of the judgment (supra), provisions of Section 37 NDPS Act cannot override the constitutional guarantee under Article 21 of the Constitution of India in case of prolonged incarceration and undue delay in trial; learned counsel further relied upon decision of the Supreme



Court passed on 13.07.2023 in **SLP(Crl.) No(s).4169/2023** titled **'Rabi Prakash Vs. The State of Odisha'**, wherein the Supreme Court opined that prolonged incarceration militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and the conditional liberty must override the statutory embargo created under Section 37 (1) (b) (ii) of the NDPS Act.

07. Learned counsel for the applicant has also placed reliance on the judgment dated 01.08.2022 passed by Hon'ble the Supreme Court in **SLP(Crl.) Nos. 5769/2020** titled **'Nitish Adhikary @ Bapan v. The State of West Bengal'** wherein the applicant was granted bail in view of applicant having no criminal antecedents and only few witnesses being examined. The hon'ble Punjab and Haryana High Court in CRM-M No.36042 of 2024 titled **'Tirath Singh Vs. State of Punjab'** decided on 02.08.2024, granted bail to the accused, in view of prolonged custody and his right to a speedy trial under Article 21 of the Constitution of India. Learned counsel submits that the applicant is entitled to be released on bail in view of no previous criminal antecedents. In support of the aforesaid contention, he has relied upon decision of the Punjab and Haryana High Court in **'Birbal Singh @ Bittu V. State of Punjab'** reported as **2024:PHHC:121859**. Learned counsel further submits that the applicant is entitled to bail as there is bleak possibility of early completion of trial.

08. It is further submitted by learned counsel for the applicant that in view of absence of criminal antecedents and that the fact that the applicant is in custody for the last three and a half years, the conditions of Section 37 of the NDPS Act can be dispensed with as is held by the Supreme Court in SLP (Crl.)



No.6690/2022 titled of '**Dheeraj Kumar Shukla v. The State of Uttar Pradesh**' decided on **25.01.2023**.

09. Learned counsel for the applicant would further argue that the applicant, even if, alleged contraband was of commercial nature was entitled to be admitted to bail on the basis of the law settled by the supreme court in the aforesaid judgments and prayed that the applicant be admitted to bail.

10. Learned counsel for the respondent, *ex adverso*, vehemently argued that the applicant is involved in an offence under NDPS Act involving commercial quantity of the seized contraband. Therefore, it cannot be said that the applicant is by any stretch of imagination an innocent to be granted bail, particularly, when statutory bar of Section 37 of the NDPS Act is applicable to the case. He has pointed out that the applicant/accused had taken a stand before the court below that the seized poppy straw had been loaded by some known persons in Kashmir valley, which means that he had kept the same under his conscious possession that too concealed under his Truck load of apple boxes, so as to transport it to his destination.

11. He further argued that the rigor of Section 37 of NDPS Act, being applicable, in view of the massive commercial quantity, as such, even due to long incarceration as an undertrial prisoner, in view of speedy trial right, petitioner is not entitled to be enlarged on bail, in view of latest law laid down by the Apex Court in case reported as 2025 SCC Online 2440. Lastly, it was prayed to rerected the bail plea.

12. The Apex Court judgment passed in *K.A. Najeeb (supra)* had laid down to harmonise the fundamental right of liberty vis-a-vis statutory provisions of



rigors/embargo to the grant of bail in special statutes. Para 18 of the judgment, being relevant is extracted as under:

“18. It is thus clear to us that the presence of statutory restrictions like Section 43D (5) of UAPA perse does not oust the ability of Constitutional Courts to grant bail on grounds of violation of Part III of the Constitution. Indeed, both the restrictions under a Statue as well as the powers exercisable under Constitutional Jurisdiction can be well harmonised. Whereas at commencement of proceedings, Courts are expected to appreciate the legislative policy against grant of bail but the rigours of such provisions will melt down where there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. Such an approach would safeguard against the possibility of provisions like Section 43D (5) of UAPA being used as the sole metric for denial of bail or for wholesale breach of constitutional right to speedy trial.”

13. Admittedly, the alleged recovery of Psychotropic Substance falls within the commercial quantity, thus, rigors/embargo of Section 37 of NDPS Act, comes into play. Therefore, unless the Court records the satisfaction on the twin requirements as envisaged under Section 37 of the NDPS Act, it is not legally permissible to grant concession of bail in view of the law laid down by the Apex Court in a recent judgment, in **Union of India Vs. Vigin K. Varghese; 2025 SCC OnLine SC 2440**, while setting aside the order of the High Court granting bail without properly considering the rigors of Section 37 held as follows:

“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 operative control and antecedent involvement, risks trenching upon appreciation of evidence which would be in the domain of trial court at first instance.

18 to 21. xxxxxxxx

22.The matters are remitted to the High Court of Judicature at Bombay for fresh consideration of the respondent's prayer for bail. The High Court shall, after affording an opportunity of hearing to both the sides and upon adverting to the statutory requirements of Section 37 and to the relevant material on record, pass a reasoned order keeping in mind the observations made hereinabove within four weeks from the date of receipt of this order.....”

14. The judgments relied upon by the learned counsel for the applicant are of no help to the applicant in view of the latest judgment of the supreme court in the case of **Vigin K. Varghese** (supra) on the subject.

15. In view of applicability of the statutory provisions of Section 37 of the NDPS Act which bars grant of bail unless the two conditions are satisfied, firstly, that the public prosecutor is to be heard before grant of such bail and secondly that there are reasons to record satisfaction that the petitioner was not involved in the commission of the offences. Though the public prosecutor has been heard by the court below and also the State counsel by this court, however, there is no material placed on record, so as to satisfy this court with regard to meet the second condition that the petitioner has not committed the offence. The evidence brought on record by the Investigating Agency is sufficient to state that



the petitioner was 'prima facie' involved in the commission of the offences of which he is charged. As such, there is no material on record, so as to suggest that applicant/accused has not committed offence under charge of having in his possession commercial quantity of poppy straw. Accused/applicant had got loaded, concealed the contraband under apple boxes and transported it from Kashmir, in the Truck driven by him, when the same was recovered and seized by ANTF on 01.12.2022 in presence of local Executive Magistrate.

16. Having regard to the aforestated discussion, observations made hereinabove and the preceding analysis, this court is of the considered opinion that the applicant is not entitled to be enlarged on bail as he is alleged to have kept in his possession the contraband, that too, of gross commercial quantity. Having regard to the nature, seriousness of the offences and gravity of the punishment therefor of which applicant is charged/accused and their impact on the society at large, economy and security of the State, the application is found to be bereft of any merit and substance is liable to be rejected.

17. Viewed thus, the application for grant of bail moved by the applicant herein is, thus, **dismissed**, alongwith connected application(s).

(M A CHOWDHARY)
JUDGE

Jammu
24.02.2026.
Raj Kumar

Whether the order is reportable? :Yes/No.