

COURT OF PRINCIPAL SESSIONS (SPECIAL) JUDGE: KATHUA

Case No : 9/ /2026.
CNR No. : JKKT01000337-2026
Date of Institution : 14-05-2026
Date of Order : 19-05-2026.

Sidharth Mahajan S/o Parveen Gupta R/o Village: Mandli, District: Kathua.

(Applicant/Accused)
Through : Sh. Devinder Singh, Advocate.

Versus

State through SHO, Police Station: Billawar/I/C P/P Ramkot.

(Respondent)
Through: Sh. Rajesh Sharma Ld.PP.

{Criminal Case registered by FIR No. 87/2026 of Police Station:
Billawar for offences made punishable U/Ss 21, 22, and 29 of the
NDPS Act read with section 8 of the Act (supra)}

And

(An application for grant of bail)

Coram : Jatinder Singh Jamwal
(JO Code No. JK00066)

ORDER

1. The application at hand was commenced, on 14-05-2026, by the above named applicant with the prayer for grant of bail inter alia on the grounds that he is innocent and has not committed any offence whatsoever yet he has been falsely implicated in the present case by the authorities of Police Station: Billawar. It is submitted that the investigation of the case is complete and he is no more required for further investigation of the case. It is further submitted that in case of him being admitted to bail, the applicant shall abide by any condition which is imposed on him by this Court.

2. Pursuant to the application report from the concerned Police Station was called which is now on record. It transpires that the applicant herein, along with one another has been arraigned as accused in a Criminal-Case registered in Police-Station: Billawar vide its FIR No. 87/2026 of Police Station: Billawar for offences made punishable U/Ss 21,22 and 29 of the NDPS Act read with section 8 of the Act (supra).

3. Prosecution in its 'statement of objections' to the application has resisted the grant of bail inter alia on the grounds that the offences for the purported commission of which the accused stands booked is non-bailable, heinous and against the society. It is further submitted that since the investigation at the threshold, the possibility of


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the accused tampering the Prosecution-evidence, in case of him being admitted to bail, is not ruled out.

3. Heard Ld. PP for the State, Ld. Counsel for the accused and perused the record. Both sides have argued on the expected lines. Whilst the Learned Spl. PP reiterated the grounds submitted by him in the 'Statement of Objections', Sh. Devinder Singh, appearing for the applicant/accused besides pleading innocence and false-implication of the applicant-accused in the present case, vehemently argued that **as per the case of the prosecution itself, the quantity, of heroin like narcotic contraband substance, recovered from the possession of applicant-accused, is 1.41 grams along with polythene and the total quantity of contraband recovered in the case is 7.22 grams which falls in the category of 'intermediate quantity'.** That being so, the rigor of section 37 of the NDPS Act is not applicable in the present case. Therefore, according to the Ld. Counsel for the applicant, further detention of the accused in the present case is not warranted and moreover doing so would amount to inflicting the punishment before conviction. In support of his arguments, Sh. Singh placed reliance on two rulings delivered by Hon'ble High Court of J&K, as reported in: 2019 (1) JKJ 195 (HC) and 2018(1) JKJ 114 (HC). (4)

4. I have considered the rival submissions of the parties and applied my mind to the facts and circumstances of the case. As per the report, the applicant- accused has been found liable for commission of offences under sections 21/22/29 of the NDPS Act read with section 8 of the Act (supra) which carries a maximum of punishment of 10 years. No doubt the offence (supra) is non-bailable yet in view of the quantum of punishment, the embargo laid in section 480 of BNSS for grant of bail is not attracted in the present case. That apart, since the total quantity of heroin purportedly recovered from the accused persons was 7.22 grams and admittedly it falls in the 'intermediate quantity', the additional embargo for grant of bail laid in section 37 of the NDPS Act is not attracted in the present case. Without being exhaustive, the considerations which normally weigh with the Court in granting bail in non-bailable offences are: the nature and seriousness of offence; the character of evidence; circumstances which are peculiar to the accused; a reasonable possibility of the presence of the accused not being secured at the trial; reasonable apprehensions of the witnesses being tampered with; the larger interest of the public or State and other similar factors which may be relevant in the facts and circumstances of the case (AIR 2005 SC 716 followed). As far as the question of the offences being heinous and against the society is concerned, it is noticed that by now it is the settled legal position that the Courts, in such situations, are required to balance the sanctity of individual liberty enshrined under the constitution on one hand and interest of the society and public loath against crime on the other. Further, it is equally settled legal

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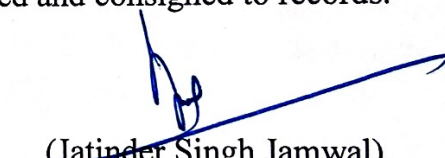
position that bail cannot be refused either as a preventative or punitive measure. Making applicable the aforesaid legal position to the merits of the present application, applying mind to the facts and circumstances of the case and without going into greater details, it is noticed that the argument/s put forth by the Ld. Counsel for the applicant/accused are well merited and deserve acceptance and that being so, in the opinion of this Court, a case is made out to admit the applicant/accused to bail. The case-law cited by Ld. Counsel for the applicant- accused is fully applicable in the present case.

5. In the circumstances, the applicant/accused is admitted to bail, subject to the condition that he furnishes personal bond in the sum of Rs. 50,000/- and two sureties, each in the sum of an equal amount to the satisfaction of this Court. Further, the accused is directed to fully cooperate with the Investigating authority in taking the investigation of the case to its logical conclusion and not to come in contact with the Prosecution witnesses, in any manner whatsoever. In case of breach of any of these conditions, it shall be open to the Prosecution to seek cancellation of the bail hereby granted to the applicant/accused.

6. Record of the file is properly compiled and consigned to records.

7. Orders accordingly. Announced.

Dated: 19-05-2026.
Kathua .


(Jatinder Singh Jamwal)
Principal Sessions (Spl.) Judge,
Kathua

**Principal
Sessions Judge
Kathua**

Rajesh
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