

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

**CRM(M) 276/2026 CrIM(656/2026**

**UNION TERRITORY THROUGH POLICE STATION ACHABAL**

..... Petitioner(s)

Through: Mr. Illyas laway, GA

V/s

**FAIZAN RASHID MISGER AND ANOTHER**

..... Respondent(s)

Through:

**Coram:**

**Hon'ble Mr. Justice Sanjay Dhar, Judge**

**ORDER**

06.05.2026

1. The petitioner has challenged order dated 04.02.2026 read with order dated 10.02.2026 passed by the learned Special Judge NDPS Cases, Anantnag whereby in a case arising out of FIR No. 108/2025 for offence under Section 8/21 of NDPS Act, the respondents have been enlarged on bail.
2. Heard learned counsel for the petitioner and perused the material available on record.
3. It appears that the Investigating Agency had recovered intermediate quantity of heroin from the respondents which led to registration of aforesaid FIR and their consequent arrest. During the investigation of the case, the respondents applied for bail before the learned Special Judge.

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4. While there is no cavil to the settled legal position that in a case where the accused is found to be in possession of intermediate quantity of contraband substance, the rigour of Section 37 of the NDPS Act is not applicable and the court has to exercise its discretion in granting or refusing bail to an accused in accordance with settled principles of law as have been enunciated by the Supreme Court and various High Courts of the country from time to time. Ordinarily this Court would not have entertained the present petition having regard to the fact that the learned Special Judge has exercised his discretion to grant bail to the respondents on account of the fact that the investigation of the case had already been completed but there are certain observations in the impugned order dated 04.02.2026 which are required to be noticed.
5. The learned Special Judge has observed that the learned APP has not furnished the hard copies of judgments cited by him. It is not for the APP to provide hard copies of the judgments to the learned trial judges once the particulars of the judgments are furnished. In present days when all the judgments are available on website of different courts as also in different Journals which are being provided to Judicial Officers of the

- Union Territory. It was not appropriate for the learned trial court to seek hard copies of these judgments from the APP. Further a perusal of the impugned order reveals that the trial court has not dealt with the contention of the prosecution that the respondents are habitual offenders regarding which particulars had been furnished to the trial court.
6. To top it all, the learned Special Judge has made bail granted to the respondents absolute in terms of order dated 10.02.2026 simply for the reason that the Supreme Court has directed that bail application should be decided within two months. While taking a decision whether or not to make interim bail absolute, the learned Special Judge was required to consider several factors including stage of investigation, the conduct of the accused during the period they were on interim bail and so many other relevant factors. Without dealing these aspects, the learned Special Judge has proceeded to make the interim bail granted to the respondents absolute for a reason which is absolutely extraneous.
7. In view of the above, while maintaining interim bail granted to the respondents, the impugned order dated 10.02.2026 passed by the learned Special Judge is set aside and the bail

application is remanded to the learned Special Judge with a direction to pass fresh order with regard to making of interim bail of the petitioner absolute or otherwise after taking into consideration the objections that may be raised by the prosecution before the said court in accordance with settled principles of law.

8. The petition is disposed of with the aforesaid directions. It is provided that the respondents shall continue to remain on interim bail till final decision is taken by the learned Special Judge. The parties shall appear before the learned Special Judge on 15.05.2026. Notice for appearance of the respondents before the learned Special Judge shall be served upon them through concerned Police Station.

**(Sanjay Dhar)**  
**Judge**

**SRINAGAR**

06.05.2026

*Aasif*

Whether the order is speaking Yes/No

Whether the order is reportable Yes/No