

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

CRM(M) 440/2026 CrIM(1004/2026)

UNION TERRITORY THROUGH POLICE STATION LITTER

..... Petitioner(s)

Through: Mr. Furqaan Yaqoob, GA

V/s

ABDUL RASHID MIR

..... Respondent(s)

Through:

Coram:

Hon'ble Mr. Justice Sanjay Dhar, Judge

ORDER

06.07.2026

1. The petitioner, through the medium of present petition, has challenged order dated 28.04.2026, passed by the learned Special Judge, NDPS, Pulwama whereby the learned Special Judge has in a case arising out of FIR No. 39/2026 for offence under Section 8/20 of the NDPS Act registered with Police Station, Litter, granted bail to the respondent/accused
2. Heard learned counsel for the petitioner and perused the record.
3. It appears that on 10.04.2026, the Police raided the house of the respondent and recovered Charas Powder which he had concealed in his house. The weight of the recovered powder

was about 417.5 grams. The respondent/accused was arrested and investigation was conducted by the Police.

4. The learned Special Judge, while granting bail to the petitioner, has noted that the respondent is involved in a case pertaining to possession of intermediate quantity of contraband substance, as such, rigour of Section 37 of the NDPS Act is not applicable to him. On this ground, the learned Special Judge has granted bail to the respondent subject to certain conditions.
5. The petitioner, has challenged the impugned order on the grounds that the respondent has committed heinous offence which is against the society, as such, he does not deserve concession of bail. It has been further contended that the learned trial court has not appreciated the arguments and that the contentions of the prosecution that the offence alleged to have been committed by the respondents is against the society and that the respondent was involved in similar activities in the previous past, have not been dealt with by the learned Special Judge.

6. It is a settled law that in a case where the rigour of Section 37 of the NDPS Act is not attracted, the court has the discretion to grant bail of course, the discretion has to be exercised on the basis of settled principle of law as have been enunciated by the Supreme Court and this Court in a catena of judgments. The factors which are required to be taken into account by the court while granting bail in such case are:

- i) Danger of the accused absconding or fleeing if released on bail.
- ii) Character, behavior, means, position and standing of the accused.
- iii) Likelihood of the offence being repeated.
- iv) Reasonable apprehension of the witnesses being influenced.
- v) Danger, of course of justice being thwarted by grant of bail.

7. In the instant case, it appears from the record that the investigation of the case has been completed and no further recoveries are to be effected from the respondent. There is nothing on record of the Special Judge to show that the

respondent is likely to abscond in case where the bail is granted to him or that he has a capacity to tamper with the prosecution witnesses. Merely because the respondent is involved in an offence which has an adverse impact on the society at large, he cannot be incarcerated indefinitely once the investigation of the case is complete. Doing so would amount to inflicting pre-trial punishment which is impermissible in law.

8. In view of the above, I do not find any ground to interfere with the impugned order passed by the learned Special Judge.

The petition, lacks merit and is, **dismissed** accordingly.

(Sanjay Dhar)
Judge

SRINAGAR

06.07.2026

Aasif