

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

CRM(M) 579/2025 CrIM(1421/2025)

Nirja Saraf

...Petitioner(s)/Appellant(s).

Through: Mr. Varut Kumar, Sr. Advocate with
Mr. Imshan Ahad, Advocate.

Vs.

**Union Territory of J and K Th.
Drugs Inspector Zone II Srinagar**

...Respondent(s)

Through:

CORAM:

HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE.

ORDER

26.09.2025

1. Issue notice to the respondents in the main as well as in the interim application returnable by the next date of hearing subject to taking of steps for service within a week's period for filing of response/objections, if any.
2. Heard learned counsel for the applicant-petitioner in respect of his prayer for grant of interim relief who, inter alia, submitted that the applicant/petitioner was not the Managing Director of the Karnataka Antibiotics Pharmaceuticals Limited as on the date of occurrence which is alleged to have occurred in the year 2013. That the petitioner was holding the additional charge of the Karnataka Antibiotics Pharmaceuticals Limited for some time in 2024, and, as such, he cannot be prosecuted in terms of the provisions of Drugs and Cosmetics Act, 1940, more particularly Section 34. He submitted that the orders passed by the learned Trial Magistrate i.e., Chief Judicial Magistrate, Srinagar, regarding impleadment of the petitioner in place of some earlier existing person as accused No. 1 and issuance of summons against him are bad in law as no cognizance can be taken against the person who was not the Managing Director of a manufacturing company or Incharge of the affairs of the same as on the date of the alleged occurrence.

3. Perused the interim application supported with an affidavit. Also perused the main petition and the copies of the documents enclosed with the same as annexures thereto.
4. Prima facie, case appears to be made out for grant of interim relief.
5. List on 7th November, 2025.
6. In the meantime, subject to any vacation/modification upon consideration of objections/arguments of the other side and till further orders, the initiation of proceedings to the extent of the petitioner shall remain stayed.

(MOHD YOUSUF WANI)
JUDGE

SRINAGAR
26.09.2025
"Shahid Manzoor"

