

(2009) 12 J&K CK 0019
In the Jammu And Kashmir High Court
Case No : B.A. No. 38 of 2009

Nissar Ahmed and Another	Vs	APPELLANT
State of Jammu & Kashmir		RESPONDENT

Date of Decision : 08-12-2009

Acts Referred:

Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) — Section 37

Citation : (2010) 2 JKJ 377

Hon'ble Judges : Barin Ghosh, C.J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Barin Ghosh, C.J.—It is the case of the prosecution that commercial quantity of Narcotics substance was seized from the accused persons.

The accused persons are in custody since the date of alleged recovery of such substance from them, which took place on October 6, 2006.

2. In the present bail application, it is the contention of the applicants that there is discrepancy in the oral evidence and documentary evidence, as

regard the quantum of sample of the seized material, which may establish that they are not guilty. These contentions are not germane, nor to be

considered while considering an application for the grant of bail. The general principles for grant of bail are: whether on enlargement on bail the

accused will disappear; whether the accused is such a person who can either pressurise the witnesses or create impediment in conclusion of the

trial; reputation of the bail seeker viz-a-viz the allegations against him; the nature of the crime alleged to have been committed; and whether it would

be safe to let such an accused loose in the society.

3. However, Section 37 of The Narcotics Drugs and Psychotropic Substances Act, 1985, commitment of offence envisaged where under has

been alleged against the applicants, requires satisfaction, in addition to what has been stated above, that there are reasonable grounds for believing

that the accused is not guilty of the offence alleged and that he is not likely to commit any offence while on bail, at the time of consideration of an

application for bail when the offence alleged involves commercial quantity of Narcotic substances.

4. In the present case, if, at this stage, it is believed that the accused are not guilty of the offences by taking into the account the discrepancies in the

evidence on record, that would conclude the trial, which, according to me is not permissible. On that ground alone the application is dismissed.

5. Inasmuch as the accused are in custody for over three years and the trial has commenced, the trial court is requested to complete the trial as

quickly as possible and, if possible, within a period of four months from the date of service of a copy of the order along with record called from the

trial court. Let the record be returned along with a copy of the order.