
(2021) 07 J&K CK 0010
In the Jammu And Kashmir High Court
Case No : Bail Application No. 34 Of 2021

Sawinder Singh

APPELLANT

Vs

Union Territory Of J&K

RESPONDENT

Date of Decision : 12-07-2021

Acts Referred:

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 8, 15

Citation : (2021) 07 J&K CK 0010

Hon'ble Judges : Rajnesh Oswal, J

Bench : Single Bench

Advocate : Rohan Nanda, Jamrodh Singh

Final Decision : Disposed Of

Judgement

Rajnesh Oswal, J

The present bail application has been filed by the petitioner for grant of bail in FIR bearing No. 120/2020 dated 04.12.2020 of Police Station, Ramssoo

for commission of offences under sections 8 and 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) after his bail

application was rejected by the learned Sessions Judge, Ramban.

It is stated that the petitioner is 34 years of age and has been falsely implicated in the case and further that the quantity of contraband allegedly

recovered from the petitioner was 40 Kg of Poppy Straw that falls within the category of intermediate quantity.

Response stands filed in which it is stated that on 04.12.2020, a docket written by ASI Ali Mohd. through SPO Khajoor Singh was received by the

Police Station, Ramssoo in which it is stated that ASI Ali Mohd. along with other Policy Party were performing naka duty on NHW44 and were

checking vehicles which were coming from Srinagar to Jammu and vice versa and during checking, at about 0830 hours morning, one truck bearing registration No. NL02L 5385 coming from Kashmir towards Jammu was stopped by the nafri (police party) for checking purpose and during checking from the truck, four corton boxes of Apple were found inside for which 35/40 Kg of Poppy Straw like substance was recovered. Pursuant to that, the aforesaid FIR was registered. It is further submitted that the FSL report is awaited and the petitioner is presently on judicial remand. It is stated in the status report that the petitioner has committed the offence against the society, as such, is not entitled to bail.

Mr. Rohan Nanda, learned counsel for the petitioner has reiterated the grounds those have been made in the bail application. He further submits that during the pendency of the bail application, the challan too has been filed.

Per contra, Mr. Jamrodh Singh, learned GA has vehemently argued that the petitioner is guilty of committing a heinous offence which is against the society and also in the event, the petitioner being resident of outside the Union Territory, is released on bail, there is no likelihood for the accused to attend the trial.

Heard and considered.

From the record, it is evident that the quantity of alleged contraband that has been recovered from the petitioner is 40 Kg Poppy Straw that falls within the category of intermediate quantity as notified vide Notification No. SO 1055(E) dated 19.10.2001 which clearly prescribes the commercial quantity of the Poppy Straw as 50 Kg. The petitioner has been in custody for nearly 08 months and there is nothing on record to doubt about the contention of the petitioner that the challan has been filed against the petitioner. As the petitioner is under judicial custody, the presence of the petitioner may be required only for the purpose of attending trial. The apprehension of jumping over the bail, as raised by Mr. Jamrodh Singh, can be taken care of by directing the applicant to produce two local solvent sureties for securing his presence during trial and also he shall inform the concerned Station House Officer (SHO) about his location on the very first day of every month.

For all what has been discussed above, this application is allowed.

The applicant/petitioner is enlarged on bail on the following conditions:

(i) subject to furnishing of two local solvent sureties to the tune of Rs. 1,00,000/- each to the satisfaction of the trial court along with personal of the like amount.

(ii) he shall furnish an undertaking that he shall intimate his whereabouts to the concerned SHO on the first day of every month.

(iii) he shall not contact with any of the prosecution witnesses during the trial and shall regularly appear before the trial court.

In the event of violation of any of the conditions mentioned above, the respondent can lay a motion for cancellation of bail of the applicant/petitioner

before the trial court.

Disposed of accordingly.