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

Bail App No. 96/2026
CrlM No. 813/2026

Reserved on: - 29.10.2026
Pronounced on: - 31.10.2026
Uploaded on: - 31.10.2026
Whether the operative part or full judgment is pronounced: - full

SAJAD AHMAD SHEIKH

….. Appellant/petitioner(s)

Through: -

Mr. Sajad Ashraf, Advocate

V/s

UT THROUGH POLICE STATION CHANAPORA AND ANR.

….. Respondent(s)

Through: -

Ms. Shaila Shameem, AC vice Mr. Mohsin Qadri, Sr. AAG

CORAM:

HON'BLE MR. JUSTICE RAJESH SEKHRI, JUDGE

JUDGMENT

01. Petitioner is aggrieved of order dated 12.05.2026, passed by learned Special Judge, NDPS Cases, Srinagar [the "trial Court" for short], whereby his application for extension of medical bail came to be rejected.

02. As the prosecution case would unfurl, on 26.08.2024, the Naka party intercepted three persons travelling in a vehicle from Mehjoor Nagar to Budshah Nagar and on their search, 36 Bottles of Codril-T containing Codeine Phosphate, a manufactured drug under NDPS Act came to be recovered from accused Aniket Kumar. FIR No. 31/2024, came to be registered at Police Station, Chanapora for offences under

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Section 8/22 read with Section 29 of NDPS Act and the investigation culminated in the presentation of charge sheet against the petitioner and co-accused.

03. The petitioner approached this Court for medical bail on the ground that he was suffering with serious cardiac condition, Type-2 Diabetes Mellitus, Hypertension, fatty liver and associated ailments and this Court vide order dated 06.06.2025, while granting limited indulgence on the medical ground to the petitioner, left it open to the trial Court to examine further extension on the basis of his medical condition and the medical record.

04. On the expiry of four months, the petitioner approached the trial Court for extension of bail primarily contending that as per the latest cardiologist examination, his cardiac stent was required to be replaced, but procedure could not be carried out because his pulse rate was above the average limit. According to the petitioner, the prison facility was not sufficiently equipped to provide the level of specialized care that he requires and he apprehended that any failure to provide timely treatment may lead to irreversible complications.

05. The bail plea of the petitioner was opposed by the prosecution primarily on the ground that he was involved in a case of commercial quantity of manufacture drug, which was squarely covered by the bar contained in Section 37 NDPS Act. According to the prosecution, the medical record annexed by the petitioner by its own showing would not indicate any acute emergency or surgical urgency which could not be addressed within the existing medical infrastructure of the jail.

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06. Pertinently, the prosecution opposed medical bail of the petitioner on the ground that he failed to make use of the bail granted by this Court in his favour for medical treatment, as the prescriptions placed on record relate only to his scattered visits in June, August and October, 2025 and it did not disclose any fixed date for any surgical intervention.

07. Learned trial Court rejected bail plea of the petitioner predominantly holding that the Standing Medical Board having had the benefit of the entire record and personal examination of the petitioner on two separate occasions recorded that petitioner, subject to the safeguards of close medical supervision and regular cardiology follow-up in the Super Specialty Hospital, can be kept in custody.

08. Petitioner is aggrieved of the observations of learned trial Court primarily on the ground that both the reports dated 08.01.2026 and 10.03.2026, submitted by the Medical Board, constituted on the directions of learned trial Court, for his assessment, reveal that he is suffering with serious cardiac ailments and he requires coronary angiography, regular cardiology follow-ups, continuous monitoring and specialized treatment.

09. According to the petitioner, learned trial Court has failed to appreciate the two medical reports submitted by the Standing Medical Board in its correct perspective that there was continuous deterioration in his health condition.

10. Petitioner has prayed for quashment of the impugned order and extension of medical bail already granted by this Court.

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11. The plea has been opposed on the other side by the respondents primarily on the ground of gravity of the charge and application of Section 37 of NDPS Act.

12. According to the respondents, petitioner is receiving proper medical treatment and Jail Authorities are providing all necessary medical facilities as per the medical advice and at any stage if specialized treatment would be required, he can be referred to a Government Hospital or any Medical Institution under judicial escort. It is contention of the respondents that medical condition of the petitioner does not warrant his release on medical bail.

13. Having heard the rival submissions, I have gone through the record.

14. While Mr. Sajad Ashraf, learned counsel for the petitioner has relied upon an order dated 06.06.2025 passed by this Court in Bail App No. 155/2024, to reiterate the grounds urged in the memo of present petition, Ms. Shaila, learned assisting counsel appearing vice Mr. Mohsin Qadri, learned Sr. AAG, has reiterated the stand of the respondents/prosecution in the reply affidavit.

15. There is no dispute to the settled position of law that right to personal liberty enshrined under Article 21 of the Constitution of India, requires that accused in custody receives proper medical care and treatment.

16. Hon'ble Supreme Court in ***Re Inhuman Conditions in 1382 Prisons; (2017) 10 SCC 658***, held that providing medical assistance and facilities to inmates in prisons needs no reaffirmation. The right to

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health is undoubtedly a human right and all State Governments should concentrate on making this a reality for all the prisoners.

17. In view of the above, a bail application on medical grounds must be decided by the Court by balancing the health and dignity of an accused against requirement of a criminal proceeding. However, it is equally trite in law that grant of bail on medical grounds primarily depends upon the nature and seriousness of illness, medical facilities available during the custody, necessity for specialized treatment and overall circumstances of a case.

18. The existence of illness, by itself, does not, entitle an accused to bail. Court is required to examine whether medical condition of accused genuinely necessitates his release from custody or whether the required treatment could be provided through a prison hospital or an appropriate Government specialized medical institution.

19. It appears that learned trial Court, during the currency of the bail application, in addition to the medical reports submitted on the rival sides, sought a report regarding medical status of the petitioner from SMHS, Hospital, Srinagar and received two reports dated 08.01.2026 and 10.03.2026 of the Standing Medical Board of Government SMHS, Hospital, Srinagar.

20. The Medical report dated 08.01.2026, of the Standing Medical Board recorded that petitioner was complaining of chest pain on exertion, he was advised to undergo coronary angiography to rule out blockage in vessels other than those said to have been earlier stented and he was already dated for the procedure. The Medical Board, however, specifically recorded that he could be kept in custody under

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close medical supervision and regular cardiology follow-up at the Super Specialty Hospital, Shireen Bagh.

21. Pertinently, the said Board in its reviewed report dated 10.03.2026, clarified that clinical examination of the petitioner on 07.03.2026 revealed only angina on effort, for which he needs coronary angiography. Significantly the Board expressly stated that the reference in its earlier report that petitioner had undergone stenting was a result of miscommunication and it certified that petitioner could be kept in custody under close medical supervision and regular cardiology follow up.

22. The only ground urged by the petitioner before the trial Court, for extension of medical bail, was that his cardiac stent was required to be replaced and the procedure could not be carried out due to his elevated pulse rate. Learned trial Court on examination of the aforesaid medical reports, particularly the modified report dated 10.03.2026, has rightly concluded that once the Standing Medical Board has on its own recorded that no stenting was, in fact carried out, the very factual edifice of the ground urged by the petitioner had collapsed and rest of the ailments complained by the petitioner as per the laboratory reports, consultation papers and prescriptions of the consultants are amenable to management on out-patient, follow up basis and lifestyle modification and they did not lie beyond the reach of the medical set up at Central Jail or of the referral linkages presently available with SMHS Hospital and Super Specialty Hospital.

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23. Hon'ble Supreme Court in ***Pawan alias Tamatar Vs. Ramprakash Pandey; (2002) 9 SCC 166***, noted that every sickness does not *ipso facto* entitle an accused to medical bail.

24. Hon'ble Supreme Court in ***State of UP Vs. Gayatri Prasad Prajapati; 2020 SCC Online SC 843***, set aside order of the High Court grating bail to the accused on medical grounds by holding that there was no satisfaction recorded by the High Court that treatment offered to the accused was not adequate and he required any further treatment by any particular medical institute for which it was necessary to release him on interim bail on medical grounds.

25. Again, Supreme Court in ***Ajit Singh Vs. State of Utrakhand vide order dated 18.03.2025, in SLP (Crl) No. 1731/2024,*** set aside order of the High Court of Utrakhand at Nanital, granting bail to the accused on medical grounds, on the ground that accused could be given medical attention for his condition and follow up treatment as required either before AIIMS New Delhi or any suitable hospital in Utrakhand.

26. Having regard to the aforesaid, it is manifest that a chronic illness or physical discomfort or a condition requiring periodic medical review would not automatically justify release of an accused. The Court has to consider the actual severity of the illness, the prescribed treatment, the risks associated with continued custody and availability of appropriate medical care.

27. A bail plea on medical ground can be rejected by a Court if it is satisfied that accused can receive appropriate treatment during the custody period and the prison authorities are able to provide necessary

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medication, monitoring, investigation, specialized consultations or hospital admission. Mere assertions regarding ailments, unsupported by medical records or appropriate medical assessment is not sufficient to justify release of an accused on medical grounds. The absence of adequate medical evidence is particularly relevant where the accused alleges that he requires urgent or specialized treatment but fails to establish the medical necessity for his release.

28. Another aspect of the matter which caught attention of the trial Court is conduct based.

29. As per the report of Standing Medical Board, petitioner was dated for coronary angiography on 25.02.2026, but he did not report in the Hospital for the procedure. The petitioner neither in his application before the trial Court, nor in the present petition has given any explanation for failure on his part to report for the procedure on the date given by the Medical Board. This Court finds itself in agreement with the observation of learned trial Court that petitioner cannot be allowed to blow hot and cold in the same breath by urging on the one hand that his cardiac condition was so grave which requires immediate attention and his consequent release from custody and on the other hand absented himself for the procedure, scheduled by the Medical Board for the condition. Trial Court rightly observed that medical bail is not an open-ended liberty to be retained and the medical purpose for which it was granted is allowed to lapse.

30. For what has been discussed, observed and analyzed, I do not find any illegality or impropriety in the impugned order, passed by the

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trial Court. Hence present bail application is **dismissed** and impugned order is upheld.

31. However, it is directed that Jail Authorities shall provide regular medical treatment to the petitioner as and when required and petitioner shall also be at liberty to apply for regular bail, if he so desires.

32. Disposed of.

(RAJESH SEKHRI)
JUDGE

SRINAGAR
31.10.2026
"Mohammad Yasin Dar"

Whether the Judgment is reportable: ***Yes***
Whether the Judgment is speaking: ***Yes***

HIGH COURT
JAMMU & KASHMIR AND LADAKH

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