

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

**Bail App No. 56/2025
CrIM No. 466/2025**

Aasif Amin Thoker

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

Through: -
Mr. Usman Gani, Advocate.
V/s

Union Territory of J&K

... Respondent(s)

Through: -
None.

CORAM:

Hon'ble Mr Justice Rahul Bharti, Judge.

(ORDER)
25.04.2025

01. The Police Station, Qazigund came to register an FIR No. 255 of 2021 for alleged commission of offences under section 8/15 and 29 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 thereby booking two persons namely Kuldeep Kumar and the petitioner.
02. The investigation of the FIR lead to presentation of Final Police Report/Challan which is pending trial before the court of Principal Sessions Judge, Kulgam.
03. The petitioner came to apply for grant of bail on contingency of ailment of his school-going minor daughter for the purpose of getting her medically examined which required ENT surgery.
04. The court of Principal Sessions Judge, Kulgam was pleased to grant a short-term bail in terms of an order dated 29.03.2025 on file No. 39 of 2025 when the petitioner came to be enlarged on

bail for a period up-till 15th of April, 2025 from the date of passing of order dated 29.03.2025 with a condition for the petitioner to surrender before the Superintendent District Jail, Kuthua on 15.04.2025 before 4.00 P.M.

05. On the basis of the short-term bail so granted, the petitioner was able to get her school-going minor daughter medically examined in Sher-e-Kashmir Institute of Medical Sciences Soura, Srinagar as OPD patient against registration ID No. 3704920 dated 10.04. 2025 as is born out from annexure-III page 23 annexed with the present bail petition.
06. The petitioner's daughter was examined by Pediatric Surgery-I (OPD)-(P-9).
07. The petitioner's daughter Aliza Aasif has been diagnosed with an ailment known as Submucosal Nasal Twang.
08. As per the OPD prescription, a date for surgery of the petitioner's daughter was given for 23rd of April, 2025.
09. In view of the fact that the date for the surgery of the daughter of the petitioner was given to be 23rd of April, 2025, as such bearing in mind the fact that his short-term bail was expiring on 15th of April, 2025, the petitioner rushed to the Court of Principal Sessions Judge, Kulgam by moving an application on file No. 89/M on 12.04.2025 seeking extension of bail for enabling him to get his daughter operated upon as per the scheduled date which application however came to be rejected upon the reasoning as given in paragraph No. 11 of the order

dated 15.04.2025 by the Court of Principal Sessions Judge, Kulgam which resulted in the petitioner taken back into judicial custody and remanded to the District Jail Kuthua from where the petitioner has come to approach this Court through the medium of the present bail petition seeking bail relatable to the medical treatment of his daughter.

10. This Court reckons that this bail petition can be disposed of at this stage as the reasoning given by the learned Principal Sessions Judge, Kulgam may have some factual basis to be cited so but nevertheless given the fact that for her minor daughter the petitioner is the only guardian who is supposed to attend her ailment, as such, the Principal Sessions Judge, Kulgam ought to have continued with the judicial trust in the petitioner with respect to the contingency of attending upon her daughter advised medical surgery for 23rd of April, 2025 without going into bonafide of the petitioner in terms of the previous prescriptions which were not procured by the petitioner himself but were during the time when the petitioner himself was inside jail and his wife was perhaps attending the petitioner's sick daughter. May be the petitioner's counsel who had moved the petition for seeking short term bail from the Court of Principal Sessions Judge, Kulgam was not able to stitch facts properly for which the petitioner should not have been made to suffer prejudice of having denial of extension of bail.

11. The surgery of the daughter of the petitioner is now scheduled for 29th of April, 2025 as per the prescription obtaining at page No. 27 of the present petition because the previous date proposed for her surgery came to suffer deferment on account of fever reported by the Doctors with respect to the petitioner's daughter.
12. This Court cannot loose site of the fact that presence of an elder male member of a family for attending upon an ailing daughter requiring surgery/hospitalization is a call of the day keeping in view the nature of the Civil and Social of which all of us are part of.
13. Therefore, this Court disposes of this petition with a direction unto the learned Principal Sessions Judge, Kulgam to grant short duration bail in favour of the petitioner to last for a period of 20 days from the date of his release from the District Jail, Kuthua by passing an order to said effect upon production of certified copy of this order.
14. A copy of this order be given to Mr. Usman Gani, the learned counsel for the petitioner under the seal and signature of the Bench Secretary.

(Rahul Bharti)
Judge

SRINAGAR:
25.04.2025
Shoaib