



IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Bail Application 1st No. 195 of 2026

Mohd. Ubesh Applicant

Vs.

State of Uttarakhand Respondent

With

Bail Application 1st No. 198 of 2026

Kasim Ali Applicant

Vs.

State of Uttarakhand Respondent

Presence:

Mr. Deepak Joshi, learned counsel for the Applicants in BA1 195 of 2026 and BA1 of 198 of 2026.

Mr. Girish Chandra Joshi, Learned A.G.A. for the State.

Hon'ble Ashish Naithani, J.

1. The present bail applications, preferred by the Applicants, namely Mohd. Ubesh and Kasim Ali, arise out of the same Case Crime No. 0420 of 2025, under Sections 8/22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Bajpur, District Udham Singh Nagar, and involve identical allegations, common questions of fact and law, therefore, they are being decided together by this common order.
2. The Applicants, Mohd. Ubesh and Kasim Ali, are in judicial custody in connection with the aforesaid case, which has been registered on the basis of a recovery effected by the Drug Inspector in association with the local police.

3. The State's case, in brief, is that on 05.12.2025, Senior Drug Inspector Neeraj Kumar, along with the police party, allegedly recovered from the possession of the Applicants, Mohd. Ubesh and Kasim Ali, 11,056 capsules of Spas Proxymine Plus, 2,640 capsules of Proximo Spas Capsules, 10,200 capsules of Patmol-Spas Capsules, and 2,400 tablets of Alprazolam Tablets I.P. 0.50 mg, at Adarsh Nagar, Ward No. 07, near Chuna Bhatti, Sultanpur Patti, within Police Station Bajpur, District Udham Singh Nagar. The said capsule formulations are described in the record as containing Paracetamol/Acetaminophen, Dicyclomine Hydrochloride and Tramadol Hydrochloride, while the tablets are described as Alprazolam 0.50 mg. The State case is that the recovered contraband falls within the category of commercial quantity.
4. It is further the case of the State that upon inquiry made at the spot, the accused persons, namely Mohd. Ubesh and Kasim Ali, disclosed that additional quantities of such substances were kept at a residential premises.
5. The FIR came to be registered on 06.12.2025 under Sections 8/22 of the NDPS Act at Police Station Bajpur, District Udham Singh Nagar. The Applicants were thereafter taken into custody and have remained in judicial custody since then.
6. Heard learned counsel for the parties and perused the records.
7. Learned counsel Shri Deepak Joshi, appearing for the Applicant Mohd. Ubesh, submits that the Applicant has been falsely implicated and no recovery has been effected from his conscious possession. It is contended that the alleged contraband was recovered from a place which was open and accessible, and therefore the essential ingredient of possession is not made out.
8. It is further submitted that the medical store from where part of the recovery is alleged is duly licensed and stands in the name of

a family member, and the Applicant has no role in its operation. Learned counsel also submits that there has been non-compliance of mandatory provisions of Sections 42 and 50 of the NDPS Act and that no independent witnesses have been associated with the recovery. It is lastly submitted that the Applicant has no criminal antecedents and is not likely to misuse the liberty of bail.

9. Learned counsel on behalf of Applicant Kasim Ali adopts the submissions advanced on behalf of the co-accused Mohd. Ubesh and, in addition thereto, submits that the role attributed to the present Applicant is even more remote and indirect.
10. It is contended that the alleged recovery cannot be said to be from the conscious possession of the Applicant Kasim Ali, and the prosecution has failed to establish any direct nexus between the Applicant and the contraband substances. Learned counsel submits that mere presence at or near the place of recovery is insufficient to attract the rigours of the NDPS Act in the absence of cogent material establishing possession.
11. Learned counsel further submits that the alleged disclosure statement made at the spot, on the basis of which further recovery is said to have been effected, is not reliable and cannot be used to the prejudice of the Applicant at this stage. It is argued that such statements are inherently weak in evidentiary value and require strict scrutiny during trial.
12. Per contra, learned A.G.A. Girish Chandra Joshi, appearing for the State, has opposed both the bail applications and submits that the recovery in the present case is of commercial quantity of psychotropic substances, and therefore, the rigours of Section 37 of the NDPS Act are clearly attracted.
13. Learned A.G.A. submits that the contraband substances were recovered pursuant to a lawful search conducted on the basis of

credible information, and that both the Applicants, namely Mohd. Ubesh and Kasim Ali, were found in possession of the said contraband.

14. It is further submitted that the quantity of the contraband recovered is substantial and falls within the category of commercial quantity, and considering the gravity of the offence and its impact on society, no leniency is warranted.
15. Learned A.G.A. also submits that the contentions raised by the Applicants regarding false implication, absence of conscious possession, and alleged procedural violations are matters of evidence which cannot be conclusively adjudicated at the stage of bail.
16. It is thus submitted that in view of the statutory embargo contained under Section 37 of the NDPS Act, and considering the seriousness of the allegations, both the bail applications deserve to be rejected.
17. At the outset, it is not in dispute that the alleged recovery in the present case pertains to psychotropic substances falling within the category of commercial quantity. The case, therefore, is governed by the stringent conditions prescribed under Section 37 of the NDPS Act, which places a clear embargo on the grant of bail.
18. The law is well settled that in cases involving commercial quantity, bail cannot be granted unless the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. These twin conditions are cumulative and are in addition to the normal considerations governing bail.
19. Upon a prima facie evaluation of the material on record, this Court does not find any such reasonable ground at this stage to form an opinion that the Applicants are not guilty of the alleged

offence. The recovery, as reflected in the record, is substantial and cannot be brushed aside without trial.

20. The contention raised on behalf of the Applicants regarding false implication and planted recovery raises disputed questions of fact which necessarily require appreciation of evidence. Such issues cannot be conclusively determined at the stage of bail and are required to be adjudicated during trial.
21. Similarly, the plea regarding absence of conscious possession, on the ground that the recovery was made from an open or accessible place, does not, at this stage, persuade this Court to record a finding in favour of the Applicants. The material presently available *prima facie* indicates involvement, which cannot be dislodged without a full-fledged trial.
22. The argument regarding non-compliance of Sections 42 and 50 of the NDPS Act also involves factual determination and cannot be examined in depth at this stage so as to override the statutory embargo contained in Section 37. Whether there has been any violation of procedural safeguards is a matter to be tested during trial.
23. The personal circumstances of the Applicants, including absence of criminal antecedents or their stated professional background, though relevant in ordinary cases, cannot dilute the rigour of Section 37 of the NDPS Act in cases involving commercial quantity.
24. Having regard to the nature of allegations, the quantity of contraband recovered, and the statutory mandate governing grant of bail, this Court is of the considered view that the Applicants have failed to satisfy the twin conditions required under Section 37 of the NDPS Act.

25. In such circumstances, this Court does not find any ground to enlarge the Applicants, namely Mohd. Ubesh and Kasim Ali, on bail.

ORDER

In view of the foregoing discussion, this Court does not find any ground to grant bail to the Applicants.

Accordingly, Bail Application No. 195 of 2026 (*Mohd. Ubesh vs. State of Uttarakhand*) and Bail Application No. 198 of 2026 (*Kasim Ali vs. State of Uttarakhand*), arising out of Case Crime No. 0420 of 2025, under Sections 8/22 of the Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station Bajpur, District Udham Singh Nagar, are hereby **rejected**.

(Ashish Naithani, J.)

Dated:17.03.2026

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