IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Bail Application 1st No. 311 of 2026

George .....Applicant

Vs.

Narcotic Control Bureau …..Respondent

With

Bail Application 1st No. 312 of 2026

Sameer .....Applicant

Vs.

Narcotic Control Bureau …..Respondent

Presence:

Mr. Karan Anand, learned counsel for the Applicants.
Mr. Shobhit Saharia, learned counsel for the Respondent/NCB.

Hon'ble Ashish Naithani, J.

1. The present bail applications have been preferred by the Applicants, namely, George and Sameer, seeking their enlargement on bail in connection with NCB Crime No. III/NCB/DDN/Seiz/09/2025, registered under Sections 8, 20, 29 and 60 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at NCB, Dehradun. Both the Applicants are in judicial custody since 09.10.2025.
2. Since both these first bail applications arise out of the same NCB Crime No. III/NCB/DDN/09/2025, relate to the same

alleged recovery, and involve common questions of fact and law, they are being heard together and are being decided by this common order. For the sake of convenience, First Bail Application No. 311 of 2026 (*George v. Narcotics Control Bureau)* is treated as the leading case.

3. The State's case, in brief, is that on 08.10.2025, acting upon secret information, the officials of the Narcotics Control Bureau, Dehradun Zonal Unit, intercepted the Applicants near Dhulkot, in the vicinity of Graphic Era Hospital, Chakrata Road, Dehradun. It is alleged that the Applicants were travelling on two separate motorcycles, and upon search, a recovery of 4.154 kilograms of charas was affected, which falls within the category of commercial quantity under the NDPS Act. Consequently, the present crime was registered, and both the Applicants were taken into custody and produced before the competent court on 09.10.2025.
4. The material on record further indicates that, as per the State, the Applicants were acting in concert, with one of them allegedly carrying the contraband while the other was stated to be moving ahead, ostensibly to alert or facilitate the movement, thereby attracting the provisions of Section 29 of the NDPS Act.
5. It is not in dispute that the bail applications preferred by the Applicants before the court of learned Special Judge, NDPS, Dehradun, came to be rejected vide order dated 08.01.2026, and it is thereafter that the present first bail applications have been filed before this Court.
6. Heard learned counsel for the parties and perused the records.
7. Learned Counsel for the Applicants submits that the Applicants have been falsely implicated and that the alleged recovery is vitiated on account of non-compliance of the mandatory provisions of the NDPS Act. It is contended that the search and

seizure have not been conducted in accordance with law, thereby rendering the prosecution case doubtful.

8. It is further submitted that the provisions of Section 52-A of the NDPS Act have not been complied with, inasmuch as no proper inventory was prepared nor certified by the Magistrate. Reliance has been placed upon the judgment of the Hon'ble Supreme Court in *Butta Singh v. State of Haryana, 2021 SCC OnLine SC 324*, to contend that strict adherence to procedural safeguards is mandatory.

9. Learned Counsel submits that the role attributed to the Applicants is distinct.

10. Insofar as the Applicant, George, is concerned, it is submitted that the alleged recovery from his possession is doubtful and not supported by due compliance of statutory safeguards.

11. On the other hand, learned Counsel for the Applicant, Sameer, submits that no recovery has been affected from him and that mere presence or travelling on a separate motorcycle would not attract the provisions of Section 29 of the NDPS Act in the absence of any material to show conscious possession or prior meeting of minds.

12. Per contra, learned Counsel for the Narcotics Control Bureau opposes the bail applications and submits that a recovery of 4.154 kilograms of charas, which is a commercial quantity, has been effected, thereby attracting the rigours of Section 37 of the NDPS Act.

13. It is contended that both the Applicants were apprehended together and were acting in concert, and thus the offence under Section 29 of the NDPS Act is clearly made out.

14. It is further submitted that the alleged procedural lapses are matters of trial and cannot be a ground for grant of bail at this

stage, and that the Applicants have failed to satisfy the twin conditions under Section 37 of the NDPS Act.

15. This Court observes that the present case arises out of an alleged recovery of 4.154 kilograms of charas, which falls within the category of commercial quantity under the NDPS Act. In such cases, the grant of bail is governed by the stringent provisions of Section 37 of the Act.

16. Section 37 of the NDPS Act imposes a statutory restriction on the power of the Court to grant bail in cases involving commercial quantity. The Court must be satisfied that there are reasonable grounds for believing that the accused is not guilty of the offence and that he is not likely to commit any offence while on bail. The expression "reasonable grounds" has been interpreted to mean something more than prima facie grounds, requiring substantial probable cause for believing that the accused is not guilty.

17. In the present case, the State has alleged that the contraband was recovered from the possession of the Applicant, George, and that both the Applicants were travelling on separate motorcycles in a coordinated manner. The material placed on record, including the seizure and the attendant circumstances, prima facie suggests a concerted movement of both the Applicants.

18. The contention raised on behalf of the Applicants regarding non-compliance of the procedural safeguards, particularly under Section 52-A of the NDPS Act and the Rules framed thereunder, has been considered. However, such contentions pertain to the manner of search, seizure, and certification of the contraband, which would necessarily require appreciation of evidence during

trial. At this stage, these alleged lapses cannot be examined in depth so as to record a finding that the Applicants are not guilty of the offence.

19. Insofar as the Applicant, Sameer, is concerned, the argument that no contraband was recovered from his physical possession has also been considered. However, the State's case is not limited to physical possession alone, but extends to allegations of acting in concert, thereby attracting the provisions of Section 29 of the NDPS Act. The fact that both the Applicants were travelling together, allegedly in a coordinated manner, cannot be brushed aside at this stage, and whether such conduct amounts to conscious involvement or prior meeting of minds is a matter to be tested on evidence during trial.

20. It is well settled that at the stage of bail under the NDPS Act, particularly where commercial quantity is involved, the Court is not expected to conduct a mini trial or meticulously evaluate the evidence. The scope of examination is limited to forming a reasonable belief on the basis of the material available on record.

21. In the present case, this Court is unable to record a satisfaction, even prima facie, that there exist reasonable grounds for believing that the Applicants are not guilty of the alleged offence. The nature of the allegations, the quantity of the contraband, and the manner in which the Applicants are stated to have acted, do not persuade this Court to take a view favourable to the Applicants.

22. Further, having regard to the seriousness of the offence and the quantity involved, this Court is also not satisfied that the Applicants are not likely to commit any offence while on bail.

23. Consequently, the twin conditions as mandated under Section 37 of the NDPS Act are not satisfied, and the Applicants are not entitled to the grant of bail.

ORDER

Accordingly, both bail applications are **rejected**.

It is clarified that the observations made herein are confined to the adjudication of the present bail applications and shall not be construed as an expression on the merits of the case during trial.

(Ashish Naithani, J.)

Dated:24.03.2026

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