



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>BA1/611/2025</u> Kamal Singh Kunwar --Applicant Versus State Of Uttarakhand --Respondent <u>Hon'ble Rakesh Thapliyal, J.</u> 1. Mr. Lalit Sharma, learned counsel assisted by Ms. Anmol Sandhu, learned counsel for the applicant. 2. Mr. Sandeep Sharma, learned A.G.A. for the State. 3. Present applicant Kamal Singh Kunwar, S/o Nandan Singh is praying for bail, who is facing trial in Special Session Trial No. 11 of 2024, arising out of FIR No. 0040 of 2023 for the offences punishable under sections 8/20 of the NDPS Act, P.S. Kapkot District Bageshwar. 4. It is argued by the learned counsel for the applicant that the present applicant was arrested on 16.10.2023 and since last two years and nine months he is in judicial custody and suffered long incarceration and though the alleged contraband which is shown to be recovered is commercial one, i.e, 1.734 kg of charas but the rider of Section 37 of the NDPS Act can be dispensed with. He further submits that the applicant is having criminal antecedent of one case of similar nature wherein he is convicted and in an Appeal he is enlarged on bail. In addition to this, he submits that at the time of search and seizure though the inventory was prepared but was not certified by the Magistrate in terms of Rule 8 of 2022 Rules, therefore, this aspect can be looked into while considering



		the bail application, though, the same is the subject matter of the trial. Learned counsel for the applicant placed reliance to the judgment of the Hon'ble Apex Court in the case of <i>Rabi Prakash vs. The State of Odisha</i> , Special Leave to Appeal (Crl.) No. 4169 of 2023, decided on 13.07.2023 and in this case the contraband which was recovered from the accused was 247 kg of Ganja, i.e., much above the commercial quantity but enlarged on bail since he was in custody for more than three and a half year. He submits that in the present case the contraband 'Ganja' which was alleged to be recovered though commercial but just above the commercial quantity and since the applicant is in custody for more than two years and nine months and there is no possibility that the trial would be expedite soon therefore in such a situation the rider of Section 37 of the NDPS Act may be dispensed with. 5. On the other side, Mr. Sandeep Sharma, learned A.G.A. for the State submits that the alleged contraband which is shown to be recovered is commercial one, therefore, in terms of Section 37 of the NDPS Act the applicant does not deserve for bail, however, he has not disputed that the present applicant is languishing in jail since 16.10.2023 and suffered long incarceration for more than 2 years and nine months. Apart from this, he submits that whether the inventory so prepared was certified in a manner as prescribed under Rule 8 of 2022 Rules or not this is completely the subject matter of the trial but this aspect can be looked into while considering the bail application. 6. After hearing the arguments of the learned counsel for the parties and taking into consideration that the present applicant is languishing in jail since 16.12.2023 and in
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		previous case though he was convicted but now on bail in Appeal, therefore, taking into consideration that the applicant already suffered long incarceration of more than 2 years and nine months, this Court is of the view that the rider of section 37 can be dispensed with and as such the applicant deserves for bail. 7. Accordingly, without expressing any opinion on the merit of the case the bail application is allowed. 8. Let the applicant “Kamal Singh Kunwar” be released on bail on his executing a personal bond and furnishing two reliable sureties of the like amount to the satisfaction of the court concerned subject to the following conditions:- (i) After being released on bail, the applicant shall attend the trial court proceeding on each and every date without seeking unnecessary adjournment. (ii) The applicant shall surrender his passport, if any, to the Trial Court within three days from the date he is released on bail. (iii) The applicant shall not indulge in any such activity in future and if he is found to be indulged in any such activity the prosecution is free to move an application for cancellation of bail. (Rakesh Thapliyal, J.) 22.07.2026 Parul
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