

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS  2026:UHC:3766
			<u>BA1 No. 656 of 2026</u> Bhawan Singh Applicant Vs. State of Uttarakhand Respondent Connected with <u>BA1 No. 723 of 2026</u> Prem Singh Applicant Vs. State of Uttarakhand Respondent <u>Hon'ble Ashish Naithani, J.</u> Mr. Akshay Joshi, learned counsel for the Applicants. 2. Mr. N.S. Kanyal, learned AGA, for the State of Uttarakhand. 3. Since both the bail applications arise out of the same FIR and common questions are involved, they are being decided by this common order. 4. Present bail applications have been moved on behalf of the applicants, namely Bhawan Singh and Prem Singh, who are in judicial custody in connection with FIR No. 02 of 2026, registered at Police Station Kotwali, District Pithoragarh, under Section 8/20 of the Narcotic Drugs and Psychotropic Substances Act, 1985. 5. The facts, in brief, are that on 05.01.2026, on the basis of alleged information received by the police, the police party proceeded towards Takana Tiraha/Government Tap, Pithoragarh. As per the State's case, the applicants were apprehended at the spot and 2 kg of charas is alleged to have been recovered from applicant Prem Singh @ Pirmu and 2 kg of charas is alleged to have been recovered from applicant

		Bhawan Singh. The alleged contraband was taken into possession, inventory/recovery proceedings were prepared, samples were drawn and the applicants were arrested. The bail applications preferred by the applicants before the learned court below were rejected. Hence, the present bail applications. 6. Heard learned counsel for the applicants and learned State counsel. Perused the record. 7. Learned counsel for the applicants submits that the applicants have been falsely implicated and that the entire State's case rests upon the alleged recovery. It is submitted that the inventory report and arrest memo, which are stated to have been prepared at the spot prior to registration of the FIR, already bear the FIR/crime number. According to learned counsel, if the FIR had not been registered at that stage, the FIR number could not have appeared on such documents. 8. Learned counsel further submits that the aforesaid infirmity is not a mere clerical irregularity but goes to the root of the recovery proceedings, as the inventory report and arrest memo are foundational documents in an NDPS matter. It is further submitted that the applicants had also sought production of CCTV footage which, according to them, would support their plea regarding their presence elsewhere. 9. It is further submitted that the alleged recovery is shown to have been made from a public place, yet no independent witness was associated. Learned counsel submits that there are discrepancies regarding the timings and preparation of the papers, and that the applicants have no previous criminal history. On these grounds, it is prayed that
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		the applicants may be enlarged on bail. 10. Per contra, learned State counsel has opposed the bail applications and submits that the alleged recovery is of commercial quantity, as 2 kg of charas is stated to have been recovered from each applicant, and therefore the rigour of Section 37 of the NDPS Act is attracted. It is submitted that the applicants were apprehended on the spot, the recovery proceedings were conducted in accordance with law, and the FSL report supports the State's case. 11. Learned State counsel further submits that Section 50 of the NDPS Act is not attracted, as the recovery was not from the personal search of the applicants but from the bags allegedly carried by them. The allegation regarding deletion of CCTV footage is also denied. 12. This Court is conscious that the alleged recovery is stated to be of commercial quantity and, therefore, Section 37 of the NDPS Act is required to be borne in mind. However, the principal circumstance which weighs with this Court at this stage is the procedural infirmity pointed out in the present matter. 13. The inventory report and the arrest memo are not merely formal documents. They constitute the contemporaneous record of the alleged search, recovery and arrest, and form a material part of the foundation of the State's case. As per the sequence projected by the State, these documents were prepared at the spot prior to registration of the FIR. However, the said documents are shown to contain the FIR/crime number. Prima facie, therefore, there appears to be an inconsistency in the chronology of events, inasmuch as
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		the FIR number could not ordinarily have been available at the stage when such documents are stated to have been prepared. 14. At this stage, the presence of the FIR/crime number on documents stated to be anterior to the registration of the FIR cannot be treated as an insignificant or routine irregularity. The same prima facie bears upon the manner, timing and credibility of preparation of the recovery/arrest documents, and raises a material doubt regarding the sequence of proceedings as projected by the State. 15. Even dehors the other grounds, the procedural infirmity noticed above is material enough at this stage to prima facie cast doubt on the sanctity of the recovery proceedings. 16. In view of the aforesaid, this Court finds that the applicants have made out a case for grant of bail. 17. Accordingly, both bail applications are allowed. Let the Applicants, be released on bail, on their executing a personal bond and furnishing two reliable sureties, each of the like amounts to the satisfaction of the Court concerned. (Ashish Naithani, J.) 14.05.2026 Nitesh
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