



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>BA1/1080/2025</u> <u>Hon'ble Rakesh Thapliyal, J.</u> 1. Mr. Vikas Anand, learned counsel for the applicant. 2. Mr. Pradeep Lohani, learned A.G.A. for the State. 3. Present applicant Munazir, S/o Nasrat praying for bail in reference to FIR dated 17.12.2024 bearing FIR No. 482 of 2024, P.S. Kashipur District Udham Singh Nagar wherein he has been implicated for the offences punishable under Sections 109 of BNS 2023 read with Section 8/21 and 60 of the NDPS Act and under Section 25/3 of the Arms Act. 4. It is argued by the learned counsel for the applicant that applicant is innocent and has been falsely implicated and the alleged recovery of contraband, i.e., smack which is commercial one, i.e. 272 gram was nothing but planted one. He further submits that the police personnel of District Udham Singh Nagar are involved in several cases of fake encounters whereby several persons have been hit on their legs especially in night which creates serious doubt on the prosecution story. He further submits that alleged recovery of smack, as shown, from the personal search of the applicant was not immediately sealed and first the applicant was taken to L.D. Bhatt Government Hospital Kashipur and only thereafter the contraband, so recovered, was sealed which creates serious doubt on the prosecution story. He further submits that there is no substantial compliance of Section 50 of the NDPS Act which renders entire prosecution version to be doubtful. He also submits that other mandatory provisions of the



			NDPS Act have also not been complied with. He further submits that applicant is languishing in jail since 17.12.2024 and already suffered long incarceration, therefore, the applicant be released on bail. 5. On the other side, a detail counter affidavit has been filed by the prosecution and it is stated that there was recovery of .315 bore tamancha from the possession of the applicant and during search, the contraband (smack) was recovered from the possession of the applicant which was weighed on the spot and found to be 272 gram with polythene and 271 gram without polythene and after search and seizure inventory report was also prepared and all the formalities as provided under the NDPS were also followed. It is further stated that after receiving the FSL report, the charge sheet was filed under Section 8/21 read with Section 60 of the NDPS Act as well as under Section 3/25 of the Arms Act and under Section 109 of BNS 2023 and two empty cartridges were also recovered from the place of the incident. 6. It is argued by the learned A.G.A. for the State that since alleged contraband which is shown to be recovered is commercial one therefore rider of Section 37 of the NDPS will come into the way, and, therefore, taking into consideration the seriousness of the allegation and the fact that applicant has been charge sheeted under the Arms Act as well as under Section 109 of BNS, the applicant does not deserve for bail . It is further argued by the learned State counsel that since the applicant could not fulfil the twin conditions, as stipulated under Section 37 of the NDPS Act, therefore, he does not deserve for bail. 7. After hearing the arguments of the learned counsel for the parties and taking into consideration that the alleged contraband which is shown to be recovered from the possession of the present applicant is commercial one, i.e. 271 Gram smack,
--	--	--	--



			therefore, this Court is of the view that the applicant does not deserve for bail in view of Section 37 of the NDPS Act. 8. Accordingly, the bail application is rejected. (Rakesh Thapliyal, J.) 11.06.2026 Parul
--	--	--	---