



HIGH COURT OF UTTARAKHAND AT NAINITAL

Special Leave Application No. 132 of 2026

With

Government Appeal No. 71 of 2026

12 August, 2026

State Of Uttarakhand

--Appellant

Versus

Surendar Singh

--Respondent

Presence:-

Mr. Himanshu Sain, learned A.G.A. for the State/ Appellant.

(Rakesh Thapliyal, J.)

1. This application for special leave to appeal is preferred by the State against the judgment and order dated 06.02.2026 passed by the learned Special Judge (NDPS Act)/ Session Judge, District Uttarkashi whereby the respondent/accused is acquitted from the charge under Section 8 read with Section 20 of the NDPS Act.

2. The instant appeal is preferred with the delay of 40 days. The delay is well explained since the delay was only due to official communication as well as for seeking necessary permission to prefer this appeal. Hence, delay is condoned.

3. Now for admission, brief facts of the case are that the contraband which is alleged to be recovered from the respondent is charas the quantity of which with polythene was 1000.5 grams and without polythene was 990 grams and the search was done on a surprise inspection thereafter inventory was prepared. The trial was commenced and from the side of the prosecution in total six prosecution witnesses were



examined and after examining their testimony and the documents available on record, the Trial Court acquit the respondent from the charge of Section 8/20 of the NDPS Act.

4. The judgment and order passed by the Trial court is challenged on the ground that the same is against the evidence on record and against the provisions of the law and based on conjectures and surmises, hence, the Trial Court's judgment is bad in law. It is argued that the learned Trial Court committed a grave error by acquitting the accused on the ground of non compliance of Section 50 of the NDPS Act by totally ignoring the settled proposition of law that the persons to be searched is mandatorily required to be taken by the empowered officer for the conduct of the proposed search before the Gazetted Officer or Magistrate, only if so requires upon being informed of the existence of his legal right to the person concerned to be searched before a Gazetted Officer or Magistrate and if the person concerned waive his right to be so searched voluntarily and chooses not to exercise the right provided to him under Section 50 of the NDPS Act then in such scenario there is no need to be searched in the presence of Gazetted Officer or Magistrate since the respondent/accused surrender his rights to be searched by the Gazetted Officer or Magistrate. It is further argued that the learned Trial Court also committed manifest illegality while acquitting the respondent on the ground there is no independent witness, and, as such, prosecution totally failed to prove its case beyond reasonable doubt, though, as a matter of fact PW3 and PW4 who are informant and recovery witness fully support the prosecution case.



5. I have gone through with the entire judgment of the Trial Court and the grounds as taken by the State and before entering into the factual matrix it is imperative to reiterate that it is well settled legal position regarding scope of interference in the judgment of the Trial Court against the order of acquittal. It is fundamental principle of criminal jurisprudence that the Appellate Court must exercise with due care and caution while reviewing the order of the Trial Court in acquitting the accused, the High Court will not substitute its opinion just because another view is feasible because it may have arrived on different conclusion of a Trial Court. Interference is warranted only if the Trial Court judgment appears to be perverse and illegal or an absolute misleading of material evidence that leads to miscarriage of justice. In the present case, the finding of the Trial Court is not only plausible but rather only logical conclusion derived from the entire record. Apart from this, it has been apprised that the respondent has no criminal antecedent and in such an eventuality the respondent already face the trial for long period and now the Trial Court after examining entire material acquit the respondent which is perfectly reasonable. Thus, I do not find any perversity and also does not find any valid grounds to interfere. Consequently, I do not find any good ground to admit the appeal.

6. Hence, the special leave to appeal stands dismissed and the judgment and order passed by the Trial Court acquitting the respondent is hereby upheld. Consequently, the instant government appeal stands dismissed.

(Rakesh Thapliyal, J.)

Parul