



SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>BA1/2175/2025</u> Rifakat --Applicant Versus State Of Uttarakhand --Respondent <u>Hon'ble Rakesh Thapliyal, J.</u> 1. Mr. Hari Mohan Bhatia, learned counsel with Mr. Saurabh Kumar Pandey, learned counsel for the applicant. 2. Mr. Vijay Khanduri, learned Brief Holder for the State. 3. Present applicant Rifakat, S/o Shakhawat Hussain, R/o Nai Basti P.S. Fatehganj (West) District Bareilly Uttar Pradesh is praying for bail in reference to FIR dated 01.01.2025 bearing FIR No. 01 of 2025, P.S. Pulbhatta District Udham Singh Nagar wherein the present applicant has been implicated for the offences punishable under Section 8/21 read with Section 60 of the NDPS Act, Section 109 of BNS 2023 and Section 3/25 of the Arms Act. 4. It is submitted by the learned counsel for the applicant that the applicant is innocent and has been falsely implicated and the entire story is, in fact, cooked up by the prosecution by showing his arrest from different place, though, as per his location at the time of arrest he was in different location. He submits that at the time of taking remand, an application was moved by the applicant to investigate about the exact location of the applicant at the time of his arrest wherein the Magistrate concerned direct the concerned I.O. to investigate this part also but without investigating that part charge sheet has been



		filed. He submits that the recovery as shown with regard to the commercial quantity of the contraband, i.e., smack is planted one and there is no substantial compliance of the mandatory provision of the NDPS Act, and, as such, applicant deserves for bail. 5. Though, in the bail application the applicant has not disclosed about his criminal antecedent, however, in the rejoinder affidavit he has disclosed about criminal antecedent of 17 cases and most of the cases are of District Barielly and only two cases are in District Udham Singh Nagar. Apart from this, most of the cases relates to the NDPS Act. In para 22 of the rejoinder affidavit chart about criminal antecedent has been given and out of 17 cases in six cases he has been acquitted and in nine cases he is already bailed out and the trial is pending. 6. Mr. Pandey further submits that the alleged contraband, i.e., smack which is shown to be recovered is about 1060 gram which is commercial quantity, therefore, rider of section 37 of the NDPS Act will come into his way. In reference to Section 37 of the NDPS Act it is argued by the learned counsel for the applicant that in the present case applicant is languishing in jail since 02.01.2025 and almost one and half years have been passed, therefore, he suffered prolonged incarceration, therefore, rider of Section 37 of the Act can be dispensed with at this stage. He further submits that so far as criminal antecedents are concerned in most of the cases applicant has been acquitted though in other cases he is bailed out and the trial is still going on, however, criminal antecedent, will not come into his way since in none of the cases he has been convicted, therefore, based on the criminal antecedents the applicant cannot be denied bail. With regard to the compliance of mandatory
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		provision of the NDPS Act he submits that though the inventory was prepared at the time of search and seizure but the inventory so prepared has not been certified by the Magistrate in the manner as provided under Rule 8 of 2022 Rules. Finally Mr. Pandey concluded his arguments by submitting that firstly the investigation is completely faulty since the issue as pointed out by the applicant before the trial court at the time of his remand with regard to his exact location has not been investigated by the I.O. while submitting the charge sheet and secondly since twin condition has been fulfilled in terms of Section 37 of the NDPS Act, therefore, applicant deserves for bail. 7. Per contra, Mr. Vijay Khanduri learned Brief Holder for the State seriously opposed the bail application by submitting that after collecting all credible evidence and material charge sheet has been filed. He further submits that the alleged contraband which is recovered from the applicant is commercial one, therefore, in terms of Section 37 of the Act, the present applicant does not deserve for bail. About criminal antecedent he submits that there are as many as 17 cases against the applicant and most of the cases are in District Bareilly and though the applicant has been acquitted in most of the cases and in rest of the cases he is bailed out but it cannot be ruled out that the present applicant has a criminal antecedent of 17 cases and indulged in such activities since long back. He submits that though most of the cases pertains to District Bareilly but there are sufficient materials that present applicant is the key person who is organizing a syndicate from Bareilly. He submits that so far as prolonged incarceration of the applicant is concerned, no doubt charge sheet
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has been filed and the trial would not be expedited soon but the fact remains that the present applicant have criminal antecedent of the cases relating to the NDPS Act and indulged in organizing the crime and running syndicate in an organized manner from Bareilly is a serious offence, therefore, merely on the ground of prolonged incarceration the applicant does not deserve for bail. He further submits that so far as inventory part is concerned no doubt the inventory was certified by the Magistrate by putting an endorsement of seen but the same is the subject matter of the trial and it cannot be looked into while considering the bail of a person who is indulged in such activities since 2009.

8. After hearing the rival submission of the learned counsel for the parties and taking into consideration the stringent condition as stipulated under Section 37 of the NDPS Act and also taking into consideration that the applicant is indulged in all these activities since long back and organizing the crime in an organized manner from Bareilly having criminal antecedent of 17 cases though in most of the cases he has been acquitted and in some of the cases trial is going on and most of the cases relates to the NDPS Act this Court does not find any merit in this bail application and the same is rejected.

(Rakesh Thapliyal, J.)

15-07-2026

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