SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			BA1/1294/2026 Gurmukh Singh --Applicant **Versus** State Of Uttarakhand --Respondent **Hon'ble Alok Mahra, J.** Ms. Sarita Bisht, Advocate for the applicant. Mr. Chitrarth Kandpal, Brief Holder for the State of Uttarakhand. 2. This first bail application has been moved by the applicant seeking regular bail in F.I.R./Case Crime No.227 of 2026, under Section 8/21 of N.D.P.S. Act, registered at Police Station Kichha, District Udham Singh Nagar. 3. As per the prosecution case, the applicant was apprehended by the police party and 52.46 grams of *smack* is alleged to have been recovered from the pocket of the applicant. 4. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case and has been languishing in judicial custody since 24.06.2026. It is contended that the mandatory procedure prescribed under Section 50 of the N.D.P.S. Act was not complied with before conducting the personal search of the applicant, inasmuch as, he was not apprised of his legal right to be searched before a Gazetted Officer or a Magistrate. It is further submitted that no such option was extended to the applicant by the police party, as is evident from the recovery memo. Learned counsel further submits that the alleged recovery of 52.46 grams of *smack* is below the commercial quantity prescribed under the N.D.P.S. Act and, therefore, the rigours of Section 37 of the N.D.P.S. Act are not attracted to the present case. It is also contended that the applicant has no previous criminal history under the N.D.P.S. Act, although two cases under Section 60 of the Excise Act are stated to be pending against him. In support of her submissions, learned counsel for the applicant has placed reliance upon the judgment of the Hon'ble Supreme Court in Narcotics Control Bureau Vs. Kashif, reported in (2024) 11 SCC 372, wherein the significance of compliance with the mandatory procedural safeguards prescribed under the N.D.P.S. Act and the relevance of procedural infirmities while considering a bail

application have been discussed. It is, thus, submitted that the alleged non-compliance with the statutory safeguards, coupled with the fact that the alleged recovery is below commercial quantity, constitutes a relevant consideration for grant of bail.

5. Per contra, learned State Counsel has vehemently opposed the bail application and submitted that the applicant is involved in a serious offence under the N.D.P.S. Act.

6. Having considered the rival submissions and upon perusal of the material available on record, this Court finds that the alleged recovery from the applicant is 52.46 grams of *smack*, which is below the commercial quantity. Consequently, the stringent twin conditions prescribed under Section 37 of the N.D.P.S. Act are not attracted in the present case, and the application is required to be considered in accordance with the settled principles governing grant of bail. A further relevant consideration is the specific contention raised on behalf of the applicant regarding non-compliance with Section 50 of the N.D.P.S. Act. It has been contended that before conducting the personal search of the applicant, he was not informed of his statutory right to be searched before a Gazetted Officer or a Magistrate. The recovery memo has also been relied upon in support of the said contention. The aforesaid submission raises an issue relating to compliance with the statutory safeguards governing personal search, which may be examined during the course of trial.

7. Accordingly, without expressing any opinion on the ultimate merits of the matter, this Court is of the considered view that the applicant has made out a case for grant of bail at this stage. The bail application is allowed.

8. Let the applicant be released on bail, on executing personal bond and furnishing two local sureties, each in the sum of ₹1,00,000/-, to the satisfaction of Court concerned, subject to the following conditions:

(i) The applicant shall attend the trial Court regularly, and, he will not seek any unnecessary adjournment.

(ii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of this case.

(iii) The applicant shall not leave India without any prior permission of the trial Court.

It is clarified that if the applicant misuses or violates any of the conditions, imposed upon him, the complainant/ informant will be free to move the court for cancellation of bail.

(Alok Mahra, J.)
02.11.2026

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ARPAN JAISWAL

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