



2026:UHC:1485

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<p>BA1 No.2448 of 2025 <u>Hon'ble Alok Mahra, J.</u></p> <p>Mohd. Matlub, Advocate for the applicant. Mr. Pradeep Lohani, Brief Holder for the State of Uttarakhand.</p> <p>2. This first bail application has been moved by the applicant seeking regular bail in F.I.R. No.28 of 2025, under Section 8/20 of N.D.P.S. Act, registered at Police Station Mori, District Uttarkashi.</p> <p>3. Applicant alongwith three accused were apprehended on 13.10.2025 at about 11:15 a.m. alleging contraband was recovered from private vehicle, which was registered in the name of Mohd. Javed S/o Murtaza.</p> <p>4. Learned counsel for the applicant contends that the applicant has been falsely implicated. He emphasizes that the applicant was neither the owner nor the driver of the vehicle, and the alleged contraband was recovered from beneath the seat, without any evidence of conscious possession attributable to the applicant. Reliance is placed on the judgment of the Hon'ble Supreme Court in Union of India through N.C.B., Lucknow Vs. Md. Nawaz Khan, reported in (2021) 10 SCC 100, wherein it was held that mere presence in a vehicle or constructive possession does not ipso facto establish conscious possession under the N.D.P.S. Act absent specific knowledge and control over the contraband. It is argued that the learned trial court rejected the prior bail application of the applicant primarily on the ground of his alleged previous criminal history in N.D.P.S. cases. However, it is specifically pleaded</p>



and admitted by the State that no criminal antecedents or pending cases exist against the applicant. Learned counsel for the applicant has also placed reliance on the judgment of the Hon'ble Supreme Court in Narcotics Control Bureau Vs. Kashif, reported in (2024) 11 SCC 372, wherein it has been held that procedural irregularities and non-compliance with mandatory provisions under the N.D.P.S. Act are material considerations while adjudicating bail applications. It was further held that although Section 37 of the Act prescribes stringent twin conditions for the grant of bail, the Court is nonetheless required to examine whether serious procedural lapses exist which may undermine the credibility of the prosecution case. Learned counsel assures this Court that, if enlarged on bail, the applicant shall not misuse the liberty granted, will fully cooperate with the investigation/trial, and will furnish bonds/sureties as directed.

5. Learned counsel for the State has vehemently opposed the prayer for bail.

6. Considering the fact that the alleged recovery is a case of joint recovery and the contraband is stated to have been recovered from beneath the seat of the vehicle, the element of conscious possession cannot, at this stage, be prima facie attributed to the applicant. Furthermore, the inventory is stated to have been prepared at the spot and significantly bears the F.I.R. number, which also raises a debatable aspect requiring consideration during trial.

7. Without expressing any opinion on the merits of the case, and keeping in view the overall facts and circumstances, this Court is of the considered opinion that the applicant has made out a fit case for grant of bail at this stage. Accordingly, the applicant deserves to be enlarged on bail.

8. The bail application is allowed.



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9. Let the applicant, namely, Shahnwaj Alam be released on bail, on executing personal bond and furnishing two reliable sureties, each of like amount, 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.)

09.03.2026

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