



2026:UHC:1463

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.2017 of 2025 <u>Hon'ble Alok Mahra, J.</u></p> <p>Mr. Harshpal Sekhon, Advocate for the applicants. Mr. Akshay Latwal, A.G.A. for the State of Uttarakhand.</p> <p>2. This first bail application has been moved by the applicants seeking regular bail in F.I.R./Case Crime No.149 of 2025, under Sections 8/18/60 of N.D.P.S. Act, registered at Police Station Pulbhatta, District Udham Singh Nagar.</p> <p>3. As per the prosecution case, the applicants were apprehended on 29.09.2025 at about 16:55 hours near Police Station Pulbhatta, District Udham Singh Nagar and were allegedly found in possession of contraband O.P.M., weighing 4.034 kg from applicant no.1 and 3.008 kg from applicant no.2.</p> <p>4. Learned counsel for the applicants submits that applicants have falsely been implicated in the instant case and are languishing in jail since 29.09.2025. It is contended that the mandatory provisions of Section 50 of the N.D.P.S. Act have not been duly complied with. In particular, it is submitted that no individual communication was made to the applicants apprising them of their right to be searched before a Gazetted Officer or a Magistrate; rather, a joint consent was allegedly obtained from both the applicants, which is contrary to the mandate of law. It is further submitted that the grounds of arrest</p>



			<p>have not been communicated to the applicants in writing till date. In support of his submissions, learned counsel for the applicants has placed reliance upon the judgment of the Hon'ble Supreme Court in State of Rajasthan Vs. Parmanand & Another, reported in (2014) 5 SCC 345, wherein it has been held that a joint communication under Section 50 of the N.D.P.S. Act would not amount to proper compliance of the statutory requirement. Reliance has also been placed upon the decision of the Hon'ble Apex Court in Mihir Rajesh Shah Vs. State of Maharashtra, reported in (2026) 1 SCC 500, reiterating the importance of strict adherence to the safeguards provided under the N.D.P.S. Act. 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.</p> <p>5. Per contra, learned State Counsel has vehemently opposed the prayer for bail and submits that the applicants have previous criminal history, including two cases under the N.D.P.S. Act (including the present case).</p> <p>6. Having considered the rival</p>
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submissions advanced by the learned counsel for the parties and upon perusal of the material brought on record, this Court finds that the N.D.P.S. Act is a stringent statute requiring strict adherence to the procedural safeguards contemplated therein. From the material placed before the Court, it prima facie appears that the requirement of Section 50 of the Act has not been duly complied with, inasmuch as, a joint communication regarding the option of being searched before a Gazetted Officer was allegedly given to both the applicants and their joint consent was obtained, which does not appear to satisfy the mandatory requirement of individual intimation. Furthermore, it has been contended that the grounds of arrest have not been communicated to the applicants in writing.

7. In view of the aforesaid circumstances, particularly the apparent procedural lapses relating to compliance of mandatory provisions of the N.D.P.S. Act, the period of incarceration undergone by the applicants, and without expressing any opinion on the merits of the case, this Court is of the considered opinion that the applicants have succeeded in making out a case for grant of bail at this stage.

8. Accordingly, the bail application is allowed.

9. Let the applicants, namely, Chaman Prakash alias Lakhvinder and Mahaveer be released on bail, on executing personal bond by each one of them and furnishing two reliable sureties by each one of them, each of like amount, to the satisfaction of Court concerned, subject



to the following conditions:

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

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

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

It is clarified that if the applicants misuse or violate any of the conditions, imposed upon them, the complainant/informant will be free to move the court for cancellation of bail.

(Alok Mahra, J.)

09.03.2026

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