

**IN THE HIGH COURT OF UTTARAKHAND**  
**AT NAINITAL**

THE HON'BLE SRI JUSTICE ALOK KUMAR VERMA

**18<sup>TH</sup> JUNE, 2024**

**SECOND BAIL APPLICATION No.52 of 2021**

Amar Singh Bora .....Applicant

Versus

State of Uttarakhand. ....Respondent

Counsel for the Applicant : Mr. Karan Singh Dugtal,  
Advocate.

Counsel for the State : Mr. Rakesh Negi,  
Brief Holder.

**Hon'ble Alok Kumar Verma,J.**

This is the Second Bail Application.

2. The First Bail Application (No.750 of 2020) was dismissed by the Coordinate Bench of this Court on 07.04.2021.

3. Present Application has been filed for grant of regular bail in connection with the First Information Report No.03 of 2020, registered at police station Dharchula, District Pithoragarh.

4. Applicant-Amar Singh Bora is in judicial custody under Section 8 read with Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

5. The case of the prosecution is that Sub-Inspector Hem Chandra Tiwari was on patrolling duty along with other police personnel on 24.01.2020. The applicant was apprehended on a secret information given by the informer. He (applicant) told the police party that he had charas. Applicant was told that he could give his

personal search to any Gazette Officer. Sub-Divisional-Magistrate Mr. Anil Kumar Shukla was informed by the Sub-Inspector Hem Chandra Tewari on his mobile phone. Mr. Anil Kumar Shukla, the Sub-Divisional-Magistrate reached on the spot. On searching the applicant's bag, 6 Kg. 33 grams of charas was recovered from it.

**6.** Heard Mr. Karan Singh Dugtal, learned counsel for the applicant and Mr. Rakesh Negi, learned Brief Holder for the State.

**7.** Mr. Karan Singh Dugtal, Advocate, contended that the applicant has been implicated in the present matter. Nothing was recovered from his possession. The alleged recovery was planted. Despite the police party having enough time, no member of the public was secured to testify, due to which, the alleged recovery is doubtful. Applicant is in custody since 24.01.2020, while the present case is still pending in prosecution evidence. Applicant is a permanent resident of District Pithoragarh, therefore, there is no likelihood of his absconding, and, there are no criminal antecedents against the applicant.

**8.** Mr. Rakesh Negi, Brief Holder appealing for the State has opposed the bail application. However, he has submitted that the applicant does not have any criminal antecedents and conclusion of trial shall take some more time.

**9.** The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act, as held by the Hon'ble Supreme Court in

the case of **Rabi Prakash vs. The State of Odisha, 2023 O Supreme (SC) 707.**

**10.** Having considered the submissions of learned counsel for both the parties and in the facts and circumstances of the case, without expressing any opinion as to the merit of the case, this Court is of the view that the applicant deserves bail at this stage.

**11.** Bail Application is allowed.

**12.** Let the applicant – Amar Singh Bora be released on bail on his executing a personal bond and furnishing two reliable sureties, each in the like amount, to the satisfaction of the court concerned on the following conditions: -

(i) Applicant shall attend the Trial Court regularly and he shall not seek any unnecessary adjournment.

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

**13.** It is made clear that if the applicant misuses or violates any of the conditions, imposed upon him, application may be filed to cancel the bail order.

---

**ALOK KUMAR VERMA, J.**

Dated: 18<sup>th</sup> June, 2024  
JKJ/Pant