

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS  2026:UHC:3171
			BA <u>1st</u> No.325 of 2026 "Mursaleen Vs. State of Uttarakhand" <u>Hon'ble Ashish Naithani, J.</u> Mr. Abhishek Verma, learned counsel for the Applicant. 2. Mr. Dinesh Chauhan, learned AGA, for the State of Uttarakhand. 3. In the High Court of Uttarakhand, the present case arises from Bail Application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, seeking regular bail for the Applicant – Mursaleen, who has been accused in Case Crime/FIR No.274 of 2025, under Sections 8/21/60 of the Narcotic Drugs and Psychotropic Substances, Act 1985 at Police Station Bahadrabad, District Haridwar. 4. The case of the prosecution is based on the FIR that on 05.07.2025, while the Police Team was in the regular duty of crime control and check-up, they came across the present Applicant, who was riding a black colour Super Splendour Plus motorcycle with Registration No.UP12BQ6728. As per the FIR, the Applicant is said to have confessed to the Police that he was carrying a contraband, namely, smack and other things inside the bag, which he was carrying on his shoulder, but after having verified the said registration number of the vehicle through E-challan machine, it was found that the motorcycle belongs to one Jabeer S/o Jabbar R/o Village Jola, Police Station Budhana, District Muzaffarnagar, Uttar Pradesh. When call for the papers of the said vehicle, the Applicant could not reveal the documents, which were asked

		for regarding the said vehicle, not even the Applicant have a valid driving licence, and thereafter the motorcycle and the Applicant then booked under the Motor Vehicle Act. After conveying the provisions of Section 50 of the NDPS Act, regarding search and seizure of the contraband, his possession is searched for i.e. bag, and after opening the same the contraband involved in the present matter was seized. The total amount of smack recovered from the bag of the Applicant is 1.042 kilograms. 5. The main ground for consideration of the bail as advanced by the learned counsel for the Applicant is that the Applicant has been falsely implicated in the present matter. In fact, the real story is that it was lifted from his godown and not from the spot where it is said to be. Referring to Section 58 of the NDPS Act, whereby it is provided that “<i>whoever without reasonable ground or suspicion enters does a search, vexatiously and unnecessarily seizes the property of any person and vexatiously and unnecessarily detains and searches and arrests the person</i>” it comes within the brackets of punishable offence. Referring to the said section, learned counsel for the Applicant submits that the present case is nothing but vexatious, the seizure and the arrest have been all built up. 6. The second argument placed before this Court regarding consideration for bail is that after his arrest, arrest memo was drafted on the spot, including the inventory report and even prior to lodging of the FIR, the said documentation contains an FIR number which cannot be done. Since crime number can only be mentioned after the lodging of the FIR
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		and hence the arrest memo, including the inventory report is <i>ante time</i> documented. Meaning thereby, it has been prepared later, but shown to have been made earlier. Mention of an FIR number, which did not, exists at the time of the arrest indicates fabrication or manipulation of official record. Thus, it is pleaded by the learned counsel for the Applicant that the bail may be granted to the Applicant on whatever conditions the Court imposes on him, he abides by the same. 7. Learned State Counsel refutes to the said submissions as advanced by the learned counsel for the Applicant on the ground that there is no fabrication in the present matter and there was no ground to show that the Applicant had vexatiously and unnecessarily arrested and the seizure shown had been illegal. It is stated that the present Applicant has a criminal history and series of cases against him, and there is no Police enmity with the Applicant which may show that he had been falsely implicated in the present matter. It is admitted that though there had been a noting of the FIR number in arrest memo and inventory report, it had been done so and the entry has been done by a Pen which can only been done after the registration of the FIR, and it is wrong to say the crime number has been mentioned prior to the lodging of the FIR. 8. Thus, it is clear that the arrest memo and the inventory report purportedly prepared prior to the registration of the FIR and curiously bears the FIR number, this renders the documentation, search and seizure, inherently suspicious and inductive it being <i>ante time</i> and subsequently prepared and back dated.
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		9. This Court finds that the arrest become <i>prima facie</i> illegal as it suggests that FIR number was actually registered earlier but shown later on the arrest memo, and the inventory report, was prepared after the FIR, but falsely back dated. In both situations, undermine the procedural sanctity mandated under the NDPS Act. 10. Considering the overall facts and circumstances of the case, the Applicant has made out a case for bail. 11. Accordingly, bail application is allowed. It is directed that the Applicant - Mursaleen, who has been accused in Case Crime/FIR No.274 of 2025, under Sections 8/21/60 of the Narcotic Drugs and Psychotropic Substances, Act 1985 at Police Station Bahadrabad, District Haridwar, be released on bail on furnishing a personal bond with two reliable sureties each in the like amount to the satisfaction of the concerned court. The Applicant shall cooperate with the trial proceedings and shall not misuse the liberty granted to him. (Ashish Naithani, J.) 27.04.2026 Nitesh/
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