

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<p><b><u>BA 1<sup>st</sup> No.313 of 2026</u></b> Mahesh Singh Kapkoti Vs. State of Uttarakhand</p> <p><b><u>Hon'ble Ashish Naithani, J.</u></b></p> <p>Mr. R.P. Nautiyal, learned senior counsel assisted by Mr. Pavan Kumar Nath, learned counsel for the Applicant.</p> <p>2. Mr. S.S. Chauhan, learned DAG for the State of Uttarakhand.</p> <p>3. The present first bail application has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking release of the Applicant in Range Case No. 15/Na.Pa./2025-26, registered at Forest Division Tanki Beat, Municipal Range, Nainital, under Sections 9/51, 39(3)/51, 44/51, 48A/51 and 49B/51 of the Wildlife (Protection) Act, 1972.</p> <p>4. The prosecution case, in brief, is that on 09.01.2026, forest officials of the Municipal Range, Nainital, acting upon information allegedly received from a secret informer, apprehended the Applicant near Polytechnic College, Pangut Road, Nainital, at about 4:20 PM.</p> <p>5. It is alleged that upon search, two leopard skins and certain bones were recovered from the possession of the Applicant. The said articles are stated to be protected wildlife articles under the Wildlife (Protection) Act, 1972.</p> <p>6. The Applicant was arrested on the same day and has been in judicial custody since 09.01.2026.</p> <p>7. It is also borne out from the record that the earlier bail application of the Applicant was rejected by the learned Additional District and Sessions Judge, Nainital, vide order</p>

dated 10.02.2026.

**8.** The Applicant claims to be a resident of District Bageshwar, running a tea stall, and asserts that he had come to Nainital for personal reasons relating to medical treatment.

**9.** Learned Senior Counsel for the Applicant submits that the Applicant is innocent and has been falsely implicated in the present case. It is contended that the alleged recovery is fabricated and no such recovery was effected from the conscious possession of the Applicant.

**10.** It is further submitted that the place of alleged recovery is a public place, yet no independent witness has been associated with the search and seizure proceedings, which casts serious doubt on the prosecution version.

**11.** Learned counsel submits that there is complete non-compliance of statutory safeguards under the Wildlife (Protection) Act, particularly with respect to recording of “reasons to believe” prior to arrest, thereby rendering the arrest itself illegal.

**12.** It is also argued that there is no material to establish conscious possession of the alleged wildlife articles. The Applicant had no knowledge of the contents of the bag allegedly recovered, and the entire prosecution case is based on conjecture.

**13.** Learned counsel further submits that the Applicant is a first-time offender with no criminal antecedents and that the rigours of Section 51A of the Wildlife (Protection) Act are not attracted, as the said provision applies to persons previously convicted.

**14.** It is also urged that the Applicant is suffering from a

serious bone ailment and requires proper medical treatment, which cannot be adequately provided in custody.

**15.** It is lastly submitted that the Applicant is a permanent resident of Uttarakhand, has deep roots in society, and there is no likelihood of absconding or tampering with evidence.

**16.** Per contra, learned DAG for the State has opposed the bail application and submitted that the allegations against the Applicant are grave in nature, involving illegal possession and trade of protected wildlife articles, namely leopard skins.

**17.** It is submitted that offences under the Wildlife (Protection) Act have serious ecological and environmental implications and cannot be treated lightly.

**18.** Learned State Counsel submits that the recovery effected from the Applicant prima facie establishes his involvement, and at the stage of bail, the same cannot be disbelieved.

**19.** It is further contended that the question of conscious possession and alleged procedural lapses are matters of trial and cannot be adjudicated conclusively at this stage.

**20.** It is also submitted that releasing the Applicant on bail at this stage may adversely affect the prosecution case.

**21.** This Court has considered the submissions advanced by learned Counsel for the parties and perused the material available on record.

**22.** The allegations against the Applicant pertain to illegal possession of wildlife articles, specifically leopard skins, which fall within the category of protected species under the Wildlife (Protection) Act, 1972. Such offences are not merely individual transgressions but have a direct bearing on conservation of wildlife and ecological balance.

**23.** At the stage of consideration of bail, this Court is required to assess whether a prima facie case exists and whether the gravity of offence and surrounding circumstances warrant release of the accused.

**24.** The prosecution case indicates recovery of prohibited wildlife articles from the possession of the Applicant. At this stage, such recovery cannot be disbelieved or subjected to meticulous examination.

**25.** The submission regarding absence of independent witnesses, though relevant, does not by itself render the prosecution case doubtful at this stage. The evidentiary value of such omission would be assessed during trial upon appreciation of evidence.

**26.** Similarly, the contention relating to lack of conscious possession raises disputed questions of fact, which require evidence and cross-examination and cannot be conclusively determined at the stage of bail.

**27.** The argument regarding non-compliance of procedural safeguards under the statute also involves factual adjudication and cannot be a sole ground for grant of bail at this stage, particularly when recovery is shown.

**28.** As regards the submission that the Applicant has no criminal antecedents and is suffering from medical ailments, while such factors are relevant, they are required to be balanced against the nature and seriousness of the allegations.

**29.** No material has been placed before this Court to demonstrate that the medical condition of the Applicant is such that it cannot be managed through appropriate treatment while in custody.

**30.** Considering the nature of allegations, the manner of alleged recovery, and the overall facts and circumstances, this Court is of the view that the Applicant has not made out a case for grant of bail at this stage.

**31.** The bail application is rejected.

**32.** However, it is directed that the jail authorities shall ensure that the Applicant is provided proper medical treatment as per requirement.

**(Ashish Naithani, J.)**

06.04.2026

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