

SL. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			<p data-bbox="643 405 866 432"><u>SABA No. 51 of 2025</u></p> <p data-bbox="643 450 1139 495"><u>Hon'ble Rakesh Thapliyal, J.</u></p> <ol data-bbox="643 521 1509 2060" style="list-style-type: none"> <li data-bbox="643 521 1509 600">1. Mr. Gaurav Singh, learned counsel for the applicant. <li data-bbox="643 607 1509 645">2. Mr. Tumul Nainwal, learned A.G.A. for the State. <li data-bbox="643 651 1509 987">3. The instant second anticipatory bail application has been moved by the present applicant Bhura @ Jamshaid S/o Nisar praying for anticipatory bail in reference to First Information Report dated 10.9.2025 bearing FIR No. 0443 of 2025 P.S. Gangnagar, District Haridwar, wherein, the present applicant along with one Usman @ Mana have been implicated for the offence punishable under Section 8/21 of NDPS Act. <li data-bbox="643 994 1509 1200">4. It is contended by the learned counsel for the applicant that the applicant is innocent and has been falsely implicated and there is no recovery from the applicant and he has been made an accused under Section 29 of NDPS Act. <li data-bbox="643 1207 1509 1547">5. A preliminary objection has been raised by Mr. Tumul Nainwal, learned A.G.A. with regard to the maintainability of the instant anticipatory bail application by submitting that in terms of State amendment in the Cr.P.C. pursuant to Uttarakhand Act No. 22 of 2020, there is complete prohibition for grant of anticipatory in terms of Section 6 of Uttarakhand Act No. 22 of 2020, which are as follows: <ol data-bbox="738 1554 1509 2060" style="list-style-type: none"> <li data-bbox="738 1554 1509 1632">(6) Provisions of this section shall not be applicable- <ol data-bbox="738 1639 1509 2060" style="list-style-type: none"> <li data-bbox="738 1639 1509 1677">(a) to the offences arising out of- <ol data-bbox="738 1684 1509 1944" style="list-style-type: none"> <li data-bbox="738 1684 1509 1722">(i) the Unlawful Activities (Prevention) Act, 1967; <li data-bbox="738 1729 1509 1807">(ii) the Narcotic Drugs and Psychotropic Substances Act, 1985; <li data-bbox="738 1814 1509 1852">(iii) the Official Secrets Act, 1923; <li data-bbox="738 1859 1509 1944">(iv) the Uttarakhand (Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986); Adaptation and Modification Order, 2002 <li data-bbox="738 1951 1509 2060">(v) sub-section(3) of Section 376 or Section 376AB or Section 376DA or Section 376DB of the Indian Penal Code;

			<p>(vi) chapter 6 of the Indian Penal Code, 1860, viz, offences against the state (except Section 129);</p> <p>(vii) The Protection of Children from Sexual Offences (POCSO) Act, 2012;</p> <p>(b) in the offences, in which death sentence may be awarded.</p> <p>6. He submits that though there is no such restriction to grant anticipatory bail in the NDPS matter in the original Cr.P.C.; however, by virtue of State amendment this restriction was imposed that the anticipatory bail shall not be granted in respect to the matter relates to the NDPS Act.</p> <p>7. He further advanced his argument by submitting that the Cr.P.C. was repealed by BNSS, 2023, and under this Act Section 482 pertains to grant of anticipatory bail and there is no any such restriction. He submits that though Cr.P.C. has been completely repealed by BNSS, 2023 and there is no any restriction or prohibition under BNSS, 2023 not to grant anticipatory bail in NDPS, however, object behind Uttarakhand Act No. 22 of 2020 was that no anticipatory bail should be granted in NDPS matter. He submits in order to assist this court that tough Cr.P.C. is completely repealed by BNSS, 2023, but the object behind Uttarakhand Act No. 22 of 2020 is very clear that the anticipatory bail should not be granted in category of the cases covered under the special Act as defined under Section 6 of Uttarakhand Act No. 22 of 2020. He further pointed out that the similar issues came up before the Coordinate Bench and the Coordinate Bench formulated the following questions:</p> <p>Whether the provisions of Section 482 of Bhartiya Nyaya Surakhsha Sanhita, 2023, would prevail over the Uttarakhand State Amendment under Section 438 of Code of Criminal Procedure, 1973 and since the provisions of this Sanhita, 2023 are beneficial to the accused can it be applied with respect to earlier cases (regardless when the case of the accused originated)?</p> <p>8. He submits that the Coordinate Bench by formulating the aforesaid question placed the matter before the Hon'ble Chief Justice and Mr. Tumul Nainwal apprise to this court that the matter would be heard by the Division Bench of this court presided over by the Hon'ble Chief Justice.</p> <p>9. Let this matter be placed before the Hon'ble</p>
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