

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

IA No.1 of 2024 For Bail Application
In
Criminal Appeal No. 772 of 2024

Kailash Singh Appellant

Vs.

State of Uttarakhand Respondent

Present:

Mr. Amit Kapri, Advocate for the appellant.

Mr. Rakesh Negi, Brief Holder for the State.

IA No.1 of 2024 For Bail Application
In
Criminal Appeal No. 789 of 2024

Girish Kumar Appellant

Vs.

State of Uttarakhand Respondent

Present:

Mr. P.S. Bohra, Advocate for the appellant.

Mr. Rakesh Negi, Brief Holder for the State.

Coram: Hon'ble Ravindra Maithani, J.
Hon'ble Siddhartha Sah, J.

Hon'ble Ravindra Maithani, J. (Oral)

Since both the appeals arise from the same Sessions Trial Number, they are heard together.

2. The instant appeals have been preferred against judgment and order dated 05.12.2024, passed in Special Sessions Trial No.20 of 2022, State Vs. Kailash Singh and Another, by the court of Special Judge (NDPS), Pithoragarh. By it, the appellants have been convicted under Sections 8/20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("the Act"), and sentenced accordingly.

3. Heard.

4. These appeals have already been admitted.

5. List in due course for final hearing.
6. Heard on First Bail Applications (IA) No.1 of 2024
7. According to the prosecution case, on 02.02.2022, both the appellants were intercepted by the police when they admitted that were carrying charas. They were given an option of being searched before the Magistrate or a Gazetted Officer, and, thereafter, search was made, and from their personal search, charas was recovered.
8. Learned counsel for the appellants submits that the entire recovery is bad in the eye of law because the option of search under Section 50 of the Act has jointly been given to both the appellants, which vitiates this communication.
9. Learned State Counsel admits this fact that both these appellants were given joint option under Section 50 of the Act.
10. In the case of State of Rajasthan Vs. Parmanand and Another, (2014) 5 SCC 345, the Hon'ble Supreme Court has considered the consequence of joint communication. In Para 17, the Hon'ble Supreme Court observed that, **“a joint communication of the right available under Section 50(1) of the NDPS Act to the accused would frustrate the very purport of Section 50.”**
9. Having considered this and other attending factors, we are of the view that it is a case in which the execution of sentence should be suspended and the appellants be enlarged on bail.
10. The bail applications are allowed.

11. The sentence appealed against is suspended during the pendency of the appeals.

12. Let the appellants be released on bail during the pendency of the appeals on their executing a personal bond and furnishing two reliable sureties, each of the like amount, by each one of them, to the satisfaction of the court concerned.

(Siddhartha Sah, J.)

(Ravindra Maithani, J.)

25.03.2026

Ravi Bisht