

(2023) 12 UK CK 0178

In the Uttarakhand High Court

Case No : First Bail Application No. 184 Of 2023

Ameer Ahmad @ Sehanshah Mama

APPELLANT

Vs

State Of Uttarakhand

RESPONDENT

Date of Decision : 27-12-2023

Acts Referred:

Narcotic Drugs And Psychotropic Substances Act, 1985 — Section 8, 20, 29

Citation : (2023) 12 UK CK 0178

Hon'ble Judges : Ravindra Maithani, J

Bench : Single Bench

Advocate : Pushpa Joshi, Nipushmola Joshi, Manisha Rana Singh

Final Decision : Dismissed

Judgement

Ravindra Maithani, J

1. Applicant Ameer Ahmad @ Sehanshah Mama is in judicial custody in FIR No.339 of 2022, under Sections 8/20/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("the Act"), Police Station ITI, District Udham Singh Nagar. He has sought his release on bail.

2. Heard learned counsel for the applicant and perused the record.

3. According to the FIR, on 20.11.2022, police intercepted a motorcycle, which had become suspicious after spotting the police. Applicant was one of the occupants. When search was made, suddenly 1.016 Kg charas was recovered from the applicant

4. Learned Senior Counsel for the applicant would submit that the police had already come to know that the applicant had charas, but the provisions of the Act have not been followed; allegedly the arrest was made at 2:35 PM, but the FIR was lodged after much delay, at 6:20 PM, at a police station, which was 6 Kms away from the place of occurrence, which doubts the prosecution case; in fact, in the recovery memo, name of the co-accused Nishar, has been cut at various

places, as if the name has been manipulated.

5. Learned State Counsel would submit that commercial quantity of charas was recovered from the applicant; it is a case of chance recovery.

6. It is a case of alleged recovery of commercial quantity of charas from the applicant. In fact, during the course of hearing, the actual weight of the recovered article was ascertained by this Court, because, as per the prosecution case, the weight was along with the wrapper. A report has been received that the weight of the wrapper is 0.003 Kg. Still, the recovered article remains commercial in quantity. It is not the case that the applicant had disclosed that they had charas. According to the FIR, suddenly, some articles were recovered from the personal search of the applicant, and when questioned, he revealed that it was charas. It is a case of chance recovery.

7. It is true that, according to the FIR, the applicant was arrested at 2:35 PM, and it is also true that the FIR was lodged at 6:20 PM. It is also true that the distance between the place of incident and the police station is 6 Kms. Is there any delay? And if so, what is its effect? Perhaps, it would be examined during trial.

8. Having considered, this Court is of the view that it is not a case fit for bail. Accordingly, the bail application deserves to be rejected.

9. The bail application is rejected.