| SL.<br>No | Date | proceedings or<br>directions and<br>Registrar's order<br>with Signatures | COURT'S OR JUDGES'S ORDERS   |
|-----------|------|--|--|
|           |      |  | BA2 No.225 of 2021   |
|           |      |  | Hon'ble R.C. Khulbe, J.  |
|           |      |  | Mr. I.D. Paliwal, learned counsel for the  |
|           |      |  | applicant.   |
|           |      |  | Mr. Amit Bhatt, learned Dy.A.G. for the  |
|           |      |  | State.   |
|           |      |  | The first bail application was dismissed by  |
|           |      |  | this Court vide order dated 05.07.2021.  |
|           |      |  | This is the second bail application moved on   |
|           |      |  | behalf of the accused–Islamuddin, who is in judicial   |
|           |      |  | custody in connection with Case Crime/FIR  |
|           |      |  | No.314/2020, u/s 8/20 of the N.D.P.S. Act,   |
|           |      |  | registered at P.S. Khatima, District Udham Singh   |
|           |      |  | Nagar, has sought his release on bail.   |
|           |      |  | It is argued that the accused has been falsely   |
|           |      |  | implicated; he is languishing in jail since  |
|           |      |  | 09.12.2020; he has no criminal history; the arresting  |
|           |      |  | parity did not comply with the provisions of Section   |
|           |      |  | 50 of the N.D.P.S. Act; he is ready to furnish the   |
|           |      |  | sureties and may be granted bail.  |
|           |      |  | Per contra, learned counsel for the State  |
|           |      |  | opposed for bail.  |
|           |      |  | As per the recovery memo, on 09.12.2020,   |
|           |      |  | when the police party was on patrolling duty and   |
|           |      |  | reached main road Khatima, the accused, who was  |
|           |      |  | coming from the opposite direction, reached at the   |
|           |      |  | spot and tried to run away in the opposite direction;<br>the accused was apprehended and he disclosed that |
|           |      |  | he had charas; accordingly, the police party   |
|           |      |  | informed him about his rights; the police party took   |
|           |      |  | the accused to the Gazetted Officer (C.O.) in a  |
|           |      |  | government vehicle where search was conducted in   |
|           |      |  | presence of the C.O. and 1 Kg. 350 gram charas was   |
|           |      |  | recovered from the bag of the accused.   |
|           |      |  | As regards to compliance of Section 50 of the  |
|           |      |  | N.D.P.S. Act is concerned, as per the recovery   |
|           |      |  | memo, the contraband article was recovered from  |
|           |      |  | the bag and not from the personal search; the  |
|           |      |  | Hon'ble Apex Court in catena of judgments has  |
|           |      |  | already held that if the contraband article is   |
| 1         | 1    |  |  |

Office Notes, reports, orders or

|  | recovered from the bag in that situation compliance of Section 50 of the N.D.P.S. Act is not necessary; the contraband article comes within the definition of commercial quantity; accordingly, looking to the gravity of the offence, it is not a fit case for bail at this stage.  The second bail application is thus, dismissed. Pending application, if any, stands disposed of. |
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|  | (R.C. Khulbe, J.) 13.01.2022 Sukhbant   |
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