

124.  
Court  
No.8

16.12.2025  
(Tanmoy)

**IN THE HIGH COURT AT CALCUTTA  
CRIMINAL APPELLATE JURISDICTION**

**IA NO: CRAN/2/2025  
In  
CRA (DB)/200/2025**

In Re: - An application under Section 389(1) Cr.PC, 1973 / Section 430(1) of BNSS, 2023 in connection with the judgment and order dated 13/14.08.2024, passed by the learned Additional District & Sessions Judge, cum Special Judge, NDPS Act, 4<sup>th</sup> Court Alipore, South 24-Parganas in ST No.01(04)2021 corresponding to SC No. 07(12) 2020 arising out of Cossipore PS Case No. 28/2020 dated 19.2.2020 in connection with NDPS Case No. 17/2020 and convicted under Sections **20(b)(ii)(C)/29** of the NDPS Act, 1985.

And

In the matter of: - **SUJAN MONDAL**

...applicant/appellant.

Mr. Ayan Bhattacharya, Sr. Adv.  
Mr. Amit Ranjan Pati

...for the applicant/appellant  
through legal aid.

Mr. Joydeep Roy  
Ms. Trisha Rakshit

...for the State.

**Dictated by Arijit Banerjee, J.**

1. The applicant was convicted under Sections 20(b)(ii)(C)/29 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 and was sentenced to suffer rigorous imprisonment for 10 years. He now prays for suspension of sentence.
2. Learned Advocate for the applicant says that the applicant is in custody for almost five years and 10 months. There was non-compliance with the provisions of Section 52A of the NDPS Act, 1985. The sample that was taken from the

spot was sent for testing to FSL. Therefore, the conviction has no legs to stand upon.

3. Learned State Counsel does not dispute the period of detention that the applicant has suffered. He also cannot dispute that the sample that was taken from the spot was sent for testing to FSL.
4. In view of the aforesaid, we *prima facie* find non-compliance with the provisions of Section 52A of the NDPS Act, 1985. Further, the applicant has served out more than half of the term imprisonment imposed on him. There is little possibility of this appeal of 2025 being heard on an early date since appeals filed much prior in point of time are yet to be heard.
5. In view of the aforesaid, we are inclined to allow this application and we hereby do suspend the sentence of imprisonment of the present applicant.
6. It is thus ORDERED that the applicant, namely, **SUJAN MONDAL**, shall be released on bail upon furnishing a bond of Rs. 25,000/- (Rupees Twenty Five Thousand), with two sureties of like amount each, one of whom must be local, to the satisfaction of the learned Chief Judicial Magistrate, South 24-Parganas at Alipore, subject to condition that the applicant, while on bail, shall not leave the geographical limits of the district of North 24-Parganas except for the purpose of attending Court proceedings without the leave of the learned Trial Court and shall report to the Officer-in-Charge/Inspector in-Charge of New Barrackpore Police

Station once in a month until further orders and that the applicant shall be personally present or be represented by his learned Counsel during hearing of the appeal and he shall surrender before the Trial Court as and when called for in connection with the present appeal.

7. The operation of the order of conviction and sentence shall remain suspended till disposal of the appeal or until further orders, whichever is earlier.
8. The department is directed to forward a copy of this order to the Superintendents of the concerned Correctional Homes for immediate release of the present applicant/appellant unless he is wanted in connection with any other case.
9. We clarify that the observations made by us in this order are only for the purpose of disposing of the application for suspension of sentence and the same shall have no relevance at the final hearing of the appeal.
10. The application being IA No: CRAN/2/2025 filed in c/w CRA (DB)/200/2025 is accordingly disposed of.
11. Criminal Section is directed to make available certified copies of this order to the parties, if applied for, upon compliance with all requisite formalities.

**(Ajay Kumar Gupta, J.)**

**(Arijit Banerjee, J.)**