

IA No. CRAN 2 of 2025
In
CRA (DB) 157 of 2022

In re: An application for suspension of sentence under Section 389 (1) of the Code of Criminal Procedure/Section 430 (1) of the BNSS filed on 13.11.2025.

- A n d -

In the matter of : Pappu Ansari @ Shakti @ Saban Ansari & Anr.
.... Appellants.

Mr. Milon Mukherjee,
Mr. Ayan Bhattacharyya,
Mr. Kunal Ganguly,,

... For the appellants.

Mr. Debasish Roy,
Mr. Saryati Dutta,
Mr. D. Dutta,

... For the State.

Dictated by Arijit Banerjee, J:-
In Re : CRAN 2 of 2025:

1. The petitioners have been convicted under Section 20(b)(ii)(C) of the NDPS Act, 1985 and have been sentenced to suffer rigorous imprisonment for ten years and to pay a fine of Rs. 1 lac by a judgment and order dated July 26, 2022. The petitioners renew their prayer for suspension of sentence and grant of bail which was rejected earlier by a Coordinate Bench by an order dated November 21, 2024.

2. Learned Senior Counsel for the petitioner says that the petitioners are already in custody for five years four months, i.e., more than half of the term for which they were sentenced. There is little possibility of early hearing of this appeal. In any event, there is at least one serious loophole in the prosecution case. There is violation of the provisions of Section 52A of the NDPS Act. The inventory of the narcotics allegedly seized was prepared at the place

of occurrence and not following the provisions of Section 52A of the NDPS Act. This makes the prosecution case incurably infirm.

3. Learned State Advocate says that whether or not there was violation of the provisions of Section 52A of the NDPS Act, would be considered at the hearing of the appeal. Commercial quantity of contraband items having been seized from the joint possession of the petitioners, in view of the restrictions in Section 37 of the NDPS Act, bail should not be granted.

4. We have considered the facts and circumstances of the case. We see from the deposition of PW 1 being the seizing officer, that both in his evidence in chief and cross-examination, in no uncertain terms he has stated that the inventory was prepared by him at the place of occurrence. This is clear contrary to the provisions of Section 52A of the NDPS Act. The appellants, therefore, appear to be having a very good arguable case for acquittal.

5. Further, we see that the appellants have already been served more than half of the terms of imprisonment imposed upon them. We do not see a real possibility of the appeal being heard on an early date. Appeals filed much prior in point of time are yet to be heard. It is well-established by now that Article 21 of the Constitution of India guarantees the fundamental right to speedy justice to a citizen. Such guarantee overrides all other considerations including Section 37 of the NDPS Act.

6. In view of the aforesaid, we feel impelled to allow this application for suspension of sentence.

7. Accordingly the appellants, namely, **Pappu Ansari @ Shakti @ Saban Ansari and Subetara Khatoon @ Tarannum Bibi**

@ **Choti**, shall be released on bail upon furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) each, with two sureties of like amount each, one of whom must be local, to the satisfaction of learned Special Court under the NDPS Act, Asansol and on further condition that the appellants shall not leave the geographical limits of Kulti Police Station excepting for the purpose of attending court proceedings and on further conditions that the appellant no. 1 shall meet the Inspector-in-Charge of the Kulti police station once a fortnight and further that the appellants shall be personally present or be represented before this Court when the appeal is taken up for hearing.

8. The operation of the order of conviction and sentence shall remain suspended till disposal of the appeal or until further orders, whichever is earlier. We also stay the operation of payment of fine till disposal of the appeal.

9. The Department is directed to forward a copy of this order to the Superintendent of the concerned Correctional Home for immediate release of the applicants/appellants unless they are wanted in connection with any other case.

10. 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.

11. The application being IA No. CRAN 2 of 2025 is, thus, disposed of.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)