IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

THE HON'BLE SRI JUSTICE B.R.MADHUSUDHAN RAO

CRIMINAL PETITION No.16913 of 2026

CNR.No. HBHC010709632026

DATE: 30.10.2026

BETWEEN:

Devarakonda Vindya Sree

... Petitioner - Accused No.1

And

The State of Telangana,
Represented by its Public Prosecutor,
High Court, Hyderabad,
Through Prohibition & Excise Station Uppal,
Medchal – Malkajgiri District

... Respondent – Complainant

ORDER

1. This memorandum of Criminal Petition is filed under Sections 480 and 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) praying this Court to enlarge the petitioner – A1 on bail in connection with Crime No.49 of 2026 of Prohibition and Excise Station, Uppal, Medhcal-Malkajgiri District. The offences alleged against the petitioner – A1 are under Sections 8(c) r/w Section 8(c) r/w 20(b)(ii)(A) and 22 (c) of NDPS Act, 1985.

2. Heard Sri Katari Ajita Simha Rao, learned counsel for the petitioner and Sri D.Arun Kumar learned Additional Public Prosecutor appearing for the respondent - complainant.

3. Learned counsel for the petitioner submits that search was not conducted complying with Section 42 of NDPS Act, 1985. On plain reading of the remand report and the panchnama, it is clear that search memo is not issued as required under Section 42 of NDPS Act. Written grounds of arrest are also not furnished, it is mandatory on the part of the investigating officer to inform the grounds of arrest whenever a person is arrested without a warrant and if the grounds of arrest are not informed to him/her in writing, it would amount to violation of fundamental rights as guaranteed under Article 21 of the Indian Constitution. In the case on hand Section 52 of NDPS Act is not followed in letter and spirit and there is gross violation of mandatory provisions. Inspector failed to follow the provisions of Section 43(5) of BNSS. There is no scope for conviction of petitioner-A1 even after conducting a full-fledged trial as there is clear violation of mandatory provisions. Counsel in support of his contention has relied on the decisions in the cases of (i) Vihaan Kumar vs. State of Harayana and another[1] and (ii) Mudhigonda Eshwar vs. State of Telangana[2] and prayed to enlarge the petitioner-A1 on bail.

4. Prohibition and Excise Sub-Inspector, Uppal Excise Station, Malkajgiri Commissionerate, has filed his written instructions

[1] (2025) 5 SCC 799
[2] 2026 3 ALD (Crl) 189 TS

dated 12.10.2026. It is stated in the written instructions that on 22.09.2026, on receipt of credible information about illegal possession and sale of OG Kush and MDMA was recovered at House No.4-4-1, Saraswathi Colony, Uppal in a black colour cover and on weighing it is found to be 9.6 grams of OG Kush and 14 grams of MDMA, seized from the possession of petitioner-A1 and A2.

5. Learned Additional Public Prosecutor submits that the role played by the petitioner – A1 is depicted in the remand case diary and prayed to dismiss the petition.

6. On perusal of the Crime Occurrence Report dated 22.09.2026, State Task Force conducted raid at House No. 4-4-1, Saraswathi Colony, Uppal, Medchal-Malkajgiri District and during the search they found and seized the contraband which is stated above.

7. Search memo is served on petitioner-A1 and A2 in presence of the witnesses on 22.09.2026. On the same day identification particulars of the accused under Section 54 BNSS is also conducted. Arrest card under Section 64 BNSS is issued against petitioner-A1, which contains the signatures of Prohibition and Excise Sub-Inspector only. Checklist under Section 35(1)(b) BNSS is also given to petitioner-A1.

8.1 In Vihaan Kumar[1], Supreme Court observed at paragraph No.8A, which reads as under:

> "8A. ....Therefore, when a person is arrested without a warrant, and the grounds of arrest are not informed to him, as soon as may be, after the arrest, it will amount to a violation of his fundamental right guaranteed under Article 21 as well. In a given case, if the mandate of Article 22 is not followed while arresting a person or after arresting a person, it will also violate fundamental right to liberty guaranteed under Article 21, and the arrest will be rendered illegal. On the failure to comply with the requirement of informing grounds of arrest as soon as may be after the arrest, the arrest is vitiated. Once the arrest is held to be vitiated, the person arrested cannot remain in custody even for a second."

8.2 In Mudhigonda Eshwar[2], this Court observed at paragraph No.10 that written grounds of arrest are not furnished to petitioner-A1, which itself is sufficient that he is entitled to be set at liberty on bail. There is clear non-compliance of the mandatory provisions of Section 52 of NDPS Act and Section 47 of BNSS as the respondent has not furnished the written grounds of arrest.

8.3 The decisions cited by the learned counsel for the petitioner stated supra are applicable to the case on hand.

9. Respondent has not placed any material to show that written grounds of arrest are served on petitioner-A1. Petitioner-A1 is entitled to be enlarged on bail on the following conditions:

i. The petitioner – A1 shall execute a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties for a like sum each to the satisfaction of the learned I Additional District and Sessions Judge, Medchal – Malkajgiri District at Kushaiguda.

ii. The petitioner – A1 shall appear before the concerned SHO between 10.00 a.m. to 05.00 p.m., on every Sunday for a period of eight (8) weeks or till filing of charge sheet whichever is earlier, for the purpose of investigation and thereafter as and when required.

iii. The petitioner – A1 shall abide by the conditions stipulated in Section 437(3) of Cr.P.C. (presently, Section 480(3) of the BNSS).

iv. The petitioner – A1 shall not directly or indirectly influence, threaten, or induce any of the prosecution witnesses.

v. In the event of violation of any of the above conditions, the prosecution is at liberty to file an application for cancellation of bail.

10. Accordingly, Crl.P.No.16913 of 2026 is allowed.

Miscellaneous petitions, if any, pending stands closed.

B.R.MADHUSUDHAN RAO, J

Date: 30.10.2026
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