

HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD

Main Case No.: CRLA No. 534 of 2026

PROCEEDING SHEET

SL. No.	DATE	ORDER	OFFICE NOTE
	04.06.2026	<p><u>VRKR, J</u></p> <p style="text-align: center;"><u>I.A.No.1 of 2026</u></p> <p>Heard Sri CH. Ravinder, learned counsel for the petitioners/appellants, Sri Jithender Veeramalla, learned Assistant Public Prosecutor and perused the record including the grounds of appeal.</p> <p>This application is filed by the petitioners/appellants under Section 430 of the BNNS to suspend the judgment dated 07.04.2026 and sentence dated 18.05.2026 passed in S.C.No.45 of 2022 on the file of learned Principal District and Sessions Judge – cum – Special Court to deal with the cases filed under Narcotic Drugs and Psychotropic Substances Act, 1985 at Mulugu.</p> <p>The case of the prosecution is that the petitioners/appellants were found in possession of 72 kgs of dry ganja, which is commercial quantity. The learned Trial Court after full fledged trial found the petitioners guilty of the offence alleged against them and thereby convicted the</p>	

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		<p>petitioners vide impugned judgment and sentence passed in S.C.No.45 of 2022. The petitioners were sentenced to undergo rigorous imprisonment for a period of ten (10) years and imposed fine of Rs.1,00,000/- each and in default to undergo rigorous imprisonment for a period of one year each for the offence punishable under Section 8 (c) read with Section 20 (b)(ii) (C) of the Narcotic and Psychotropic Substances Act. That apart, the petitioner No.1/Accused No.1 was further sentenced to undergo rigorous imprisonment for a period of three (03) months and also to pay fine of Rs.5,000/- each and in default to pay fine of Rs.5,000/- for the offence under Section 3 and 4 read with Section 181 of the Motor Vehicles Act.</p> <p>Aggrieved thereby, the petitioners filed CRLA No.534/2026 along with the present application to release them by suspending the judgment and sentence passed against them.</p> <p>The learned counsel for the appellants-petitioners contended that the prosecution agency failed to follow the mandatory procedure laid down under</p>	

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		<p>Sections 42, 50, 52-A of the Narcotic and Psychotropic Substances Act. In this regard reliance was placed upon the decision of this Court in <i>Shaik Naim and another v. State of A.P. represented by its Public Prosecutor, High Court of A.P., Hyderabad {2025 (2) ALT (CrL.) 538 (T.S.)}</i>, wherein the accused was acquitted of the offence alleged against him on the ground that the sample was not deposited before the Court for the purpose of inventory and sampling and thereby the procedure Under Section 52-A of the Act was not followed.</p> <p>Further, reliance was placed on the decision of the Honourable Supreme Court in <i>Simarnjit Singh v. State of Punjab {(2024) 14 Supreme Court Cases 222}</i>, wherein the accused was acquitted on the ground that the sampling has not been done under the supervision of the Magistrate, which is mandatory under Section 52-A of the NDPS Act.</p> <p>It is further contention of the learned counsel for the petitioners that the learned Trial Court failed to take into consideration the admissions, contradictions, omissions and inconsistencies committed by the prosecution witnesses i.e., PWs 1, 2, 3, 5, 7</p>	

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		<p>and 8.</p> <p>The learned Assistant Public Prosecutor placed reliance upon the order dated 23.04.2026 passed by this Court in <i>Rajashekarni Laxman Rao v. The State of Telangana in I.A.No.2 of 2026 in CRLA No.403 of 2026</i>, wherein this Court dismissed the application filed under Section 430 (1) of BNSS on the ground that rigour of Section 37 of the NDPS Act and seriousness of the offence. However, it is pertinent to note that Section 37 of the NDPS Act is a provision intended exclusively for regulating bail at pre-trial stage and it no legal relevance or applicability at the time of final disposal of the main case.</p> <p>A perusal of the impugned judgment prima facie, it appears that the prosecution agency conducted investigation in violation of mandatory provisions enumerated under the NDPS Act while seizing and depositing the samples. The learned Trial Court at paragraph No.110 of the impugned judgment observed as under:</p> <p>In the instant case non-compliance with Section 52 – A is non fatal procedural irregularity, as the integrity and identity of</p>	

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		<p>the seized sample were established by the consistent evidence and in fact chain of custody said irregularity was not effecting the integrity of the seized substance.’</p> <p>Thus, it is clear that despite noticing that the mandatory procedure under Section 52-A of the Act was not complied, the learned Trial Court considered the same as non fatal procedural irregularity.</p> <p>Considering the submissions of the learned counsel for the petitioners and also taking consideration the principle laid down in the above said decisions, this Court is of the considered view that it is a fit case to suspend the sentence passed in the impugned judgment.</p> <p>Accordingly, the sentence of imprisonment imposed against the petitioners/accused Nos.1 and 2 alone in S.C.No.45 of 2022 is suspended pending Criminal Appeal and they shall be enlarged on bail on their executing a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only) with two sureties each for a like sum to the satisfaction of the learned Principal District and Sessions Judge – cum – Special Court to deal with the cases filed under Narcotic Drugs and Psychotropic</p>	

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		<p data-bbox="531 349 1059 383">Substances Act, 1985 at Mulugu.</p> <p data-bbox="1086 499 1222 533"><u>VRKR,J</u></p> <p data-bbox="691 539 1062 573"><u>CRLA No. 534 of 2026</u></p> <p data-bbox="531 613 1222 701">Registry is directed to call for the records from the learned Trial Court.</p> <p data-bbox="628 763 943 797">List on 20-07-2026.</p> <p data-bbox="1086 875 1222 909"><u>VRKR,J</u></p> <p data-bbox="531 949 576 983">AS</p>	