

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Appeal (SB) No. 1032/2026

Anopchand S/o Shri Shivkaran Godara, Aged About 36 Years, R/
o Kharnal, Tehsil Mundwa, Policestation- Sadar, District- Nagaur,
Rajasthan. (Presently Lodged In Sub Jail Rajgarh, Dist. Churu)

----Appellant

Versus

State Of Rajasthan, Through Public Prosecutor.

----Respondent

For Appellant(s)	:	Mr. Dilip Singh Udawat
For Respondent(s)	:	Mr. Shriram Choudhary, PP

HON'BLE MR. JUSTICE KULDEEP MATHUR

Order

03/07/2026

S.B. Criminal Appeal (SB) No. 1032/2026:-

Admit.

S.B. Criminal Misc. Application for Suspension of Sentence

No.1009/2026:-

Heard learned counsel for the applicant-appellant and the learned Public Prosecutor on the application for suspension of sentence.

Learned counsel for the applicant-appellant submitted that, in the present case, the contraband was not recovered from his conscious possession. He further submitted that the learned trial Court, in the impugned judgment, failed to consider that the applicant-appellant has been implicated solely on the basis of the disclosure statements of the co-accused persons from whose conscious possession the contraband was recovered.

Drawing the attention of the Court to paragraph No.25 of the impugned judgment, learned counsel submitted that, according to the prosecution, the co-accused persons were in contact with the applicant-appellant through mobile numbers 9813828107 and 9982243274. However, PW-13, in his testimony, categorically stated that mobile number 9813828107 was not active at the relevant time and that, although mobile number 9873519520 was active, no incoming calls were found on the said number. Learned counsel further submitted that the learned trial Court failed to appreciate that the applicant-appellant has been implicated in the present case without any cogent evidence being available against him and merely on the basis of conjectures and surmises.

Learned counsel further submitted that the applicant-appellant is in judicial custody and that the criminal appeal filed by him is not likely to be heard in the near future owing to the heavy pendency of criminal appeals before this Court. He also submitted that the applicant-appellant has no criminal antecedents and that there is no likelihood of his absconding or fleeing from justice in the event the sentence awarded to him by the learned trial Court is suspended. Apart from the aforesaid grounds, learned counsel contended that there are several other substantial grounds available to the applicant-appellant for assailing the impugned judgment of conviction and, therefore, the sentence awarded to him deserves to be suspended during the pendency of the appeal.

Per Contra, the learned Public Prosecutor opposed the submissions advanced on behalf of the applicant-appellant seeking suspension of sentence. However, he was not in a position to dispute the fact that the applicant-appellant has no criminal

antecedents and that there is no apprehension of his absconding or fleeing from justice in the event the sentence awarded to him by the learned trial Court is suspended.

Upon consideration of the submissions advanced at the Bar and having regard to the facts and circumstances of the case as borne out from the record, particularly the fact that the hearing of the appeal is likely to consume considerable time, this Court is of the opinion that it is a fit case for suspending the sentence awarded to the accused-appellant during the pendency of the present appeal.

Accordingly, the application for suspension of sentence filed under Section 430 BNSS is allowed and it is ordered that the sentence passed by the learned Special Judge, NDPS Act Cases, Rajgarh, District Churu vide judgment dated 20.05.2026 passed in Sessions Case No.52/2021 against the appellant - applicant- **Anopchand S/o Shri Shivkaran Godara**, shall remain suspended till final disposal of the aforesaid appeal and he shall be released on bail, provided he execute a personal bond in the sum of Rs.1,00,000/- with two sureties of Rs.50,000/- each to the satisfaction of the learned trial Judge for his appearance in this court on **05.08.2026** and whenever ordered to do so till the disposal of the appeal on the conditions indicated below:-

1. That he/she/they will appear before the trial Court in the month of January of every year till the appeal is decided.
2. That if the applicant(s) changes the place of residence, he/she/they will give in writing his/her/their changed address to the trial Court as well as to the counsel in the High Court.
3. Similarly, if the sureties change their address(s), they will give in writing their changed address to the trial Court.

The learned trial Court shall keep the record of attendance of the accused- applicant(s) in a separate file. Such file be registered as Criminal Misc. Case related to original case in which the accused-applicant(s) was/were tried and convicted. A copy of this order shall also be placed in that file for ready reference. Criminal Misc. file shall not be taken into account for statistical purpose relating to pendency and disposal of cases in the trial court. In case the said accused- applicant(s) does not appear before the trial court, the learned trial Judge shall report the matter to the High Court for cancellation of bail.

(KULDEEP MATHUR),J

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