

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 187 of 2023

1. Dharmendra Rai S/o Bhagdev, Aged About 30 Years Resident Randhava, P.S. Rajpaker, District Baishali, Bihar.
2. Nandkishore Gupta S/o Panchanand Gupta Aged About 31 Years Resident Rampur, P.S. And District Vashali Bihar

---- Appellants

Versus

- State Of Chhattisgarh Through P.S. Nagarnar, District Bastar (Chhattisgarh)

---- Respondent

06.02.2023	Ms. Aparjita Gaikwad, Advocate for the appellants. Mr. Himanshu Sharma, Panel Lawyer for the State. Heard on application (I.A. No. 01/2023) under Section 389(2) CrPC for suspension of sentence and grant of bail. By the impugned judgment dated 01.12.2022 passed by Special Judge (NDPS Act) Jagdalpur, District Bastar (CG) in Special Criminal Trial (NDPS Act) No. 07/2017, the appellants stand convicted and sentenced as under:- <table><tr><th>Conviction</th><th>Sentence</th></tr><tr><td>U/s. 20 (B) (ii-C) of the NDPS Act</td><td>RI for 10 years and fine of Rs. 1,00,000/- in default of payment of fine 1 year additional RI</td></tr></table> Learned counsel for the appellants would submit that the appellants have undergone 6 years, 9 months and 25	Conviction	Sentence	U/s. 20 (B) (ii-C) of the NDPS Act	RI for 10 years and fine of Rs. 1,00,000/- in default of payment of fine 1 year additional RI
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days of imprisonment whereas maximum jail sentence awarded to the appellants is 10 years and further the appeal is of the year 2022, final hearing of the same will take some time, therefore, the appellants may be enlarged on bail.

Learned State counsel while opposing the bail application would submit that from the possession of the appellants 120 KG contraband was seized which is more than the commercial quantity. He would further submit that the samples have been rightly collected after following due procedure of law and Section 50 of the NDPS Act has been rightly complied, therefore, they are not entitled to be released on bail.

I have heard learned counsel for the parties and perused the entire record carefully.

Considering the fact that the appellants have undergone 6 years, 9 months and 25 days of imprisonment whereas maximum jail sentence awarded to them is 10 years and further the appeal is of the year 2022, final hearing of the same will take some time therefore, I am inclined to allow this application.

Accordingly, the application is allowed and it is directed that the substantive jail sentence imposed upon the appellants shall remain suspended during the pendency of this appeal and they shall be released on bail on each of

them furnishing a personal bond in sum of Rs. 1,00,000/- along with two local sureties each of the like sum to the satisfaction of the concerned trial Court for their appearance before the Registry of this Court on **22.03.2023**. They shall thereafter continue to appear before the Registry of this Court on all such subsequent dates as are given to them by the Registry of this Court till the disposal of this appeal.

List this case for final hearing.

Sd/-
(Narendra Kumar Vyas)
Judge