

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 880 of 2019

1. Ramanand Choudhary S/o Nageshwar Choudhary Aged About 50 Years R/o Village Turkara, Police Station Gopalganj District Gopalganj (Bihar)
2. Shilkumari W/o Govind Singh Karan Aged About 30 Years R/o Village Dabra, Police Station Dabra, Dehat District Gwalior, Madhya Pradesh

---- Appellants

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Basna, District Mahasamund Chhattisgarh.

---- Respondent

15/07/2019	Mr. Vikash Pradhan, Counsel for the Appellants. Mr. KK Dewangan, Dy. GA for the Respondent/State. Heard on IA No. 01/2019, an application under Section 389 of Cr.P.C. for suspension of sentence as well as fine amount and grant of bail to the Appellants. By the impugned judgment dated 16/05/2019, passed by the learned Special Judge (NDPS Act) Saraipali, District Mahasamund (C.G.) in Special Session Criminal Case No. 10/2017, the Appellants stand convicted under Section 20(B) II C of the NDPS Act and sentenced to undergo RI for 10-10 years with fine of Rs. 1,00,000-1,00,000/-, with default stipulation. Learned counsel for the Appellants submits that in this case, the Appellants have wrongly been convicted by the Trial Court. He further submits that mandatory provisions of Section 50 & 54 of the NDPS Act have not been complied with. As per documents Ex. P-23, Ex. P-24, Ex. P-25 & Ex. P-26 total 71 packets, each containing 1 Kg. Contraband <i>Ganja</i> has been seized but, in other documents, seized contraband mentioned as 70 Kgs. Learned Counsel further submits that as per entries in Ex. P-29, after preparing sample

packet, remaining contraband 69.800 Kgs. was kept in two plastic bags. Contrary to this, *Panchnama* has been prepared by Executive Magistrate which shows that contraband was kept in single bag, therefore, entire prosecution story is suspicious inspite of that the Appellants have wrongly been convicted.

On the other hand learned Counsel appearing for the State opposes the bail application.

I have heard learned counsel for the parties.

Considering the facts and evidence available on record, further considering the detention period of the accused/Appellants and arguments advanced by the learned Counsel for the Appellants, without further commenting on merits of the case, I am inclined to release the Appellants on bail.

Accordingly, the bail application is allowed.

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 their furnishing a personal bond for a sum of Rs. 25,000/- with one surety in the like sum to the satisfaction of the trial Court for their appearance before the Registry of this Court on **05.11.2019**. They shall thereafter appear before the trial Court on a date to be given by the Registry of this Court and shall continue to appear there on all such subsequent dates as are given to them by the said Court, till disposal of this appeal.

List this case for final hearing in due course.

Sd/-

(Arvind Singh Chandel)
Judge