

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1265 of 2018

- Alimul Mallik S/o Ibrahim Ali, Aged About 31 Years, R/o Village Pattarasan, Police Station and Tahsil Dinhata, District Kuchbihar West Bengal, West Bengal

---- Appellant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Ganj, Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondent

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14/12/2018	Shri Aditya Khare and Shri Keshav Dewangan, Advocates for the appellant. Shri Anil S. Pandey, Govt. Advocate for the State/respondent. Heard on I.A. No. 2/2018, application for suspension of sentence and grant of bail to the appellant. By the impugned judgment dated 14.5.2018 passed by the Court of Learned Special Judge, Narcotic Drugs and Psychotropic Substances Act, 1985, Raipur, District Raipur, Chhattisgarh in Special Criminal Case under the NDPS Act No.112 of 2017, the appellant has been convicted and sentenced as mentioned below:- <table><tr><th>Conviction</th><th>Sentence</th></tr><tr><td>U/s 20(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985</td><td>R.I. for 10 years and fine of Rs.1,00,000/-, in default of payment of fine, further R.I. for 1 year.</td></tr></table> It is submitted on behalf of the appellant that the appellant has been erroneously convicted and sentenced in the impugned judgment of the trial Court. The appellant is in jail since 27-03-2017. No case is made out for conviction. The witnesses of search and seizure have not supported the prosecution case and the conviction against the appellant suffers from infirmity on the ground that the complainant and the Investigating Officer is the same person. Hence, it is prayed that the application may be allowed. Per contra, learned counsel for the State opposes the prayer for	Conviction	Sentence	U/s 20(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985	R.I. for 10 years and fine of Rs.1,00,000/-, in default of payment of fine, further R.I. for 1 year.
Conviction	Sentence				
U/s 20(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985	R.I. for 10 years and fine of Rs.1,00,000/-, in default of payment of fine, further R.I. for 1 year.				

suspension of sentence and grant of bail submitting that the quantity of Ganja seized from this appellant is commercial quantity, therefore, the application may be rejected.

Heard learned counsel for the parties and perused the record of the trial Court.

After perusing the deposition of the witnesses and the Investigating Officer of the case, I feel inclined to allow this application.

Accordingly, I.A.No.2/2018, application for suspension of sentence and grant of bail, is allowed.

It is directed that the jail sentence imposed upon the appellant shall remain suspended during the pendency of this appeal and he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surely in like sum to the satisfaction of the trial Court for his appearance before the Registry of this Court on **26th of February, 2019**. He 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 him by the said Court, till disposal of this appeal.

The appellant shall be required to pay part of the fine amount, Rs.10,000/- before his release on bail after furnishing bail bond and the rest of the fine sentence shall remain suspended till disposal of this appeal.

Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge