

## HIGH COURT OF CHHATTISGARH, BILASPUR

## Order Sheet

**Criminal Appeal No. 1778 of 2018**

1. Sadanand Patel S/o Thakuram Patel Aged About 28 Years R/o Village- Sagundhap Rajakatela, Thana- Sankra And District- Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh
2. Kailash Patel S/o Dasharam Patel Aged About 32 Years R/o Village- Sagundhap Rajakatela, Thana- Sankra And District- Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Appellants

**Versus**

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

---Respondent

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| 14/12/2018 | <p>Shri Vikash Pradhan, Advocate for the appellants.</p> <p>Shri Anil S. Pandey, G.A. for the State.</p> <p>Heard on I.A. No. 1 of 2018, an application for suspension of sentence and grant of bail to the appellants.</p> <p>By the impugned judgment dated 26.11.2018 passed by the Learned Special Judge (NDPS) Act, Mahasamund, District Mahasamund, Chhattisgarh in Special Sessions Criminal Case No.H13 of 2018, the appellant stands convicted under Section 20(B) (ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to undergo rigorous imprisonment for 4 years and to pay fine of Rs.10,000/-, in default of payment of fine, to further undergo RI for 6 months.</p> <p>Learned counsel for the appellants submits that the appellants have been erroneously convicted and sentenced by the trial Court in</p> |

the impugned judgment. No case is made out for conviction. The independent witnesses of search and seizure have not supported the case of the prosecution. The conviction against the appellants suffers from illegality as the complainant and the Investigating Officer is the same person and this practice has been deprecated by the Hon'ble Supreme Court in the case of **Mohan Lal vs. State of Punjab** reported in **AIR 2018 SC 3853**. Hence, it is prayed that the application be allowed.

Learned State counsel opposes the bail application.

Perused the impugned judgment of the Court below.

After perusing the evidence present on record of the trial Court, I feel inclined to allow the I.A. No. 1 of 2018, an application for suspension of sentence and grant of bail. Consequently, the same is allowed.

It is directed that the 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 the sum of Rs.25,000/- with one surety in like sum to the satisfaction of the concerned trial Court for their appearance before the Registry of this Court on **20.02.2019** and thereafter before the concerned trial Court on a date to be fixed by the Registry and on all such subsequent dates as would be given by that Court till final disposal of this appeal.

List this appeal for final hearing in due course.

**Sd/-**

**(Rajendra Chandra Singh Samant)**  
Judge