



HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Criminal Appeal No. 1796 of 2018

Aklesh Banjare S/o Late Paresal Banjare Aged About 23 Years R/o Near Sub Health Center ,village Girhola ,police Station Nandini,district Durg Chhattisgarh.

---- Appellant

Versus

The State Of Chhattisgarh Through Excise Department Circle Dhamdha ,district Durg Chhattisgarh., District : Durg, Chhattisgarh.

---Respondent

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12/12/2018	Shri A.C. Sahu, Advocate for the appellant. Shri Anil S. Pandey, G.A. for the State. Heard on admission. Admit. Call for the record of the Court below. Also heard on I.A. No. 1 of 2018, an application for suspension of sentence and grant of bail to the appellant. By the impugned judgment dated 24.11.2018 passed by the Learned Special Judge (under NDPS Act), Durg, District Durg, Chhattisgarh in NDPS Case No. 4 of 2018, the appellant stands convicted under Section 20(B)(ii)(W) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to undergo rigorous imprisonment for 2 years and to pay fine of Rs.10,000/-, in default of payment of fine, to further undergo RI for 2 months. Learned counsel for the appellant submits that the appellant has been erroneously convicted and sentenced by the trial Court in the impugned judgment without there being any reliable evidence of the prosecution against the appellant beyond reasonable doubt. The



independent witnesses of search and seizure have not supported the case of the prosecution. The conviction against the appellant suffers from illegality as the Informant and the Investigating Officer is the same person. Even though, it is a case of short sentence of only two years imprisonment, the appellant has been sent to jail after passing the order of conviction against him. Hence, it is prayed that the sentence may be suspended and he may be released on bail.

Learned State counsel opposes the bail application.

Perused the impugned judgment of the Court below.

After due consideration and looking to the fact that the appellant had been on bail during trial and subsequent to passing of judgment, he has not misused his liberty, hence, 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 appellant shall remain suspended during the pendency of this appeal and he shall be released on bail on 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 his appearance before the Registry of this Court on **20.2.2019** 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