HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1577 of 2021

- Bhim @ Suraj Soni S/o Dwaru Soni, Aged About 26 Years, R/o In Front of Chinna Shop, Sanyasi Para, Thana Khamtarai Distict Raipur, Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station-Moudhapara, District Raipur, Chhattisgarh.

---- Respondent

CRA No. 1534 of 2021

- Mohammad Sajid Tigala S/o Yunus Tigala Aged About 23 Years R/o Asraar Gali, Maudahapara, Police Station Maudahapara, District Raipur Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Maudahapara, Raipur District Raipur Chhattisgarh.

---- Respondent

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Bilaspur

CRA No. 1665 of 2021

- Ajay Kumar Chouhan S/o Ram Nagina Chouhan Aged About 40 Years R/o Titurdih, Nayapara, P.S. Mohan Nagar, District Durg Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through The District Magistrate, Raipur, District Raipur Chhattisgarh.

---- Respondent

14.09.2022	Mr. Vikas Pradhan, Mr. Ramsajivan and Mr. H.A.P.S. Bhatia, counsel for the respective Appellants. Mr. Raghvendra Verma, G.A. for the State.	

In CRA No. 1577 of 2021

Heard on I.A. No. 01/2021, application for suspension of sentence and grant of bail.

By the impugned judgment dated 25.11.2021 passed by learned Special Judge (N.D.P.S. Act) Raipur, District Raipur (C.G.) in Special Criminal Case No. 06/2020 whereby the learned Judge convicted the appellant as under:

Conviction	Sentence
U/s 21(C) of NDPS Act	R.I. for 10 years and fine of Rs. 1,00,000/- with default stipulation.
U/s 22(B) of NDPS Act	R.I. for 4 years and fine of Rs. 25,000/- with default stipulation.

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Mr. Vikas Pradhan, learned counsel for the appellant would submit that in this case the statements of the independent panch witnesses depict a different picture than the one portrayed by the official witness PW-1. Furthermore, learned trial Court failed to appreciate that there are major contradictions and omissions in the statement of Investigating Officer (PW-9). In the case of **Avinash Singh Rajput Vs. State of Chhattisgarh in CRA No. 222 of 2014** (judgment delivered on 30.09.2019) it was held that the strict compliance of Section 55 of the Act, 1985 is mandatory but in the present case, Section 55 of the Act, 1985 was not complied. The trial Court has convicted the appellant without there being any legally admissible evidence against him. The appellant is in jail since 05.12.2019 and the final hearing of this appeal will take more time, therefore, the appellant may be released on bail by suspending his jail sentence.

On the other hand, State counsel opposes the bail application submitting that the appellant is sentenced to

undergo R.I. for 10 years under Section 21(C) of the NDPS Act, and the appellant has not even completed 3 years of his jail sentence.

I have heard learned counsel for both the parties.

Considering the facts and circumstances of the case, nature and quality of the evidence available on record, further considering the sentence imposed upon him by the Court below, without further commenting on merits of the case, I am inclined to release the applicant on bail.

Accordingly, I.A. No. 01/2021, application for suspension of sentence and grant of bail is allowed.

It is directed that the substantive 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 for a sum of Rs. 50,000/-, with one local surety in the like sum to the satisfaction of the trial Court for his appearance before the Registry of this Court on **18th October 2022.** He shall thereafter appear before the concerned trial Court on a date to be given by the Registry of this Court and thereafter, shall continue to appear all subsequent dates given to him by the trial Court till disposal of this appeal.

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Bilaspur

In CRA 1665 of 2021

Heard on I.A. No. 02/2022, application for condonation of non-appearance of the appellant before the Registry on 29.04.2022.

Mr. H.A.P.S. Bhatia, counsel for the appellant would submit that the appellant could not appear before the Registry on the given date as he is languishing in jail in another crime and also he could not furnish the bail/bond as per order dated

14.01.2022 of this Court.

Upon due consideration, I.A. No. 02/2022 is allowed.

Non-appearance of the appellant on the given date before the Registry is condoned.

As the appellant is languishing in jail in another crime, he need not be given further date for his appearance. However, in the event of appellant's furnishing bail bond in the present crime number, he shall appear before the Registry of this Court immediately one month after furnishing of bail bonds and, thereafter, shall appear before the trial Court on a date to be given by the Registry and shall continue to appear there on all such dates as are given to him by the trial court till disposal of this appeal.

Post all the cases for final hearing in due course.

Sd/-
(Rajani Dubey)
Judge

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V/-