



WEB COPY

CRL MP No. 8798 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-07-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL MP No. 8798 of 2026

IN

CRL A NO. 645 OF 2026

Govindhan,
S/o. Irulappan,
Sooriyankattu Thottam,
Karappalayam Village,
Kattur Post, Palladam Taluk,
Tiruppur District.

..Petitioner/Accused

Vs

State Rep. By
Inspector of Police
Kamanaickenpalayam Police Station,
Tiruppur Distirct.
Crime No.87 of 2021.

..Respondent(s)

CRL A No. 645 of 2026

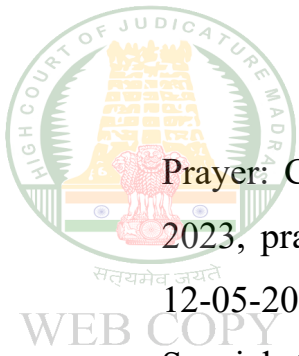
Govindhan
S/o. Irulappan,
Sooriyankattu Thottam,
Karappalayam Village,
Kattur Post, Palladam Taluk,
Tiruppur District.

..Appellant(s)

Vs

State Rep. by Inspector of Police
Kamanaickenpalayam Police Station,
Tiruppur Distirct.
Crime No.87 of 2021.

..Respondent(s)



Prayer: Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, 2023, praying to Suspend the Sentence imposed in C.C.No.39 of 2022 dated 12-05-2026 on the file of learned Additional District Judge/Presiding Officer, Special Court for EC Act/NDPS Act Cases, Coimbatore and enlarge the petitioner on bail, pending disposal of Criminal Appeal before this Court.

For Petitioner(s): Mr.S.Saran Prasad

For Respondent(s): Mrs.Sharada Vivek,
Government Advocate (Crl. Side)

ORDER

The petitioner/Accused in C.C.No.39 of 2022 was convicted by the trial Court by the judgment dated 12.05.2026, for the offence under Sections 8(c) r/w 20(a)(i) and 8(c) r/w 20(b)(ii)(B) of Narcotic Drugs and Psychotropic Substance Act, 1985 (in short 'NDPS Act') and sentenced to undergo three years rigorous imprisonment and to pay a fine amount of Rs.25,000/-, in default, to undergo six months rigorous imprisonment for each of the offence. Aggrieved against the said conviction, the petitioner has preferred the above appeal along with the instant miscellaneous petition seeking suspension of sentence and bail.

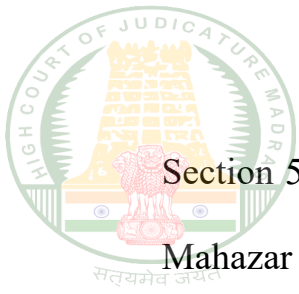
2. The case of the prosecution is that on 08.03.2021, while PW1/Sub Inspector of Police, Kamanaickenpalayam Police Station was on duty, the informant appeared in person and informed that a person was selling Ganja at Sooriyakattu area, Kattor village and he can identify the said person. After



recording the secret information/Ex.P1, PW1 informed the same to the Superior Officer and after obtaining permission, proceeded to the scene of occurrence along with one Suresh/PW4, the Head Constable and Anthony Bright Christopher. The informant identified the accused/petitioner and thereafter PW1 introduced himself and enquired the petitioner and also gave him an option to be searched in compliance to Section 50 of the NDPS Act. After obtaining consent/Ex.P2, search conducted. The Ganja weighing around 4 kgs., produced by the petitioner, seized by PW1 under seizure mahazar/Ex.P3. Thereafter samples taken at the scene of occurrence and through Destruction Mahazar/Ex.P5, the seized Ganja destructed. The accused and the contraband brought to the police station and a case in Crime No.87 of 2021 registered. Thereafter, PW3 took up investigation, examined the witnesses, recorded their statement and sent the seized Ganja for forensic examination. On completion of investigation, charge sheet filed.

3. During trial, on the side of the prosecution, PW1 to PW5 examined, Exs.P1 to P14 marked and M.O.1 and M.O.2 produced. On the side of the defence, Ex.D1 marked. On conclusion of the trial, the trial Court convicted the petitioner as stated above.

4. The learned counsel for petitioner submitted that the seizure has been made in presence of PW1, PW2 and PW4, hence, there is clear violation of



Section 52-A of NDPS Act. Further, the destruction through Ex.P5/Destruction Mahazar conducted at the scene of occurrence like prohibition offences and not followed the provisions under the NDPS Act. Hence, there is clear violation of statutory conditions. Hence, prayed for granting suspension of sentence to the petitioner.

5. The learned Government Advocate (Crl. Side) filed counter and submitted that in this case PW1 on getting information, recorded the same in Ex.P1 in compliance to Section 42 of NDPS Act, submitted the same to PW3, the Superior Officer and went to the scene of occurrence along with PW4 and another Head Constable, enquired the petitioner and seized 4 kgs. of Ganja from him. She further submitted that prior to the search, Section 50 of NDPS Act complied with, thereafter the petitioner and the contraband brought to the police station and F.I.R. registered. PW5 conducted further investigation and filed charge sheet in this case. The trial Court on the evidence and materials produced had rightly convicted the petitioner. Hence, prays to dismiss the petition.

6. Considering the submissions made and on perusal of the materials, it is seen that in this case the evidence of PW1, PW2 and PW4 is that the contraband was seized and samples were taken at the scene of occurrence, but not in the presence of the Magistrate. The Seizure Mahazars/Ex.P3 and P4 and the Destruction Mahazar/Ex.P5 confirm that all took place at the scene of

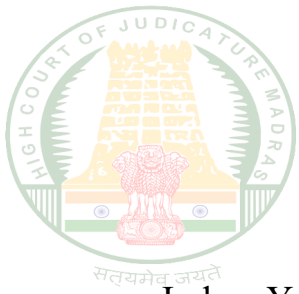


occurrence. Hence, there is a violation of Section 52-A of the NDPS Act and the destruction procedure conducted by PW1 at the scene of occurrence is not in accordance with the provisions of the NDPS Act. In view of the same, there is clear violation of the statutory requirements. Finding that there are arguable points involved in this appeal and it would take some time for the appeal to be taken up for final hearing, this Court is inclined to suspend the sentence imposed on the petitioner.

7. Accordingly, the substantive sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the appeal and he is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

8. Further, the petitioner shall appear before the Trial Court once in three months on the first working day at 10.30 a.m., until the disposal of the appeal and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.

9. Accordingly, this Criminal Miscellaneous Petition is ordered.



21-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
RSI

Note: Issue order copy on 21.07.2026.

To

1. The Additional District Judge/Presiding Officer,
Special Court for EC/NDPS Act Cases,
Coimbatore.
2. The Inspector of Police
Kamanaickenpalayam Police Station,
Tiruppur District.
3. The Superintendent of Prison,
Central Prison, Coimbatore.
4. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR J.

RSI

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