



CRL MP(MD) NO. 6689 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.08.2026

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THE HONOURABLE MR.JUSTICE S.KARTHIKEYAN

CRL MP(MD) NO. 6689 of 2026

in

CRL A(MD)No.375 of 2026

Boominathan

Petitioner(s)

Vs

The State of Tamil Nadu rep. by,
The Inspector of Police,
Koodalpudhur Police Station,
Madurai.
In Crime No.828/2020

Respondent(s)

For Petitioner(s):

Mr.M.Jegadeesh Pandian

For Respondent(s):

Mr.A.Robinson

Government Advocate (Crl. Side)

Prayer:

To suspend the sentence imposed on the petitioner/appellant/accused No.1 passed by the Learned II Additional Special District Court for trial of NDPS Act cases, Madurai in C.C.No.255 of 2020 dated 30.08.2024 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

ORDER

The petitioner/appellant has come up with the present application seeking to suspend the sentence imposed on the petitioner by the II Additional Special



District Court for trial of NDPS Act cases, Madurai, in C.C.No.255 of 2020 dated 30.08.2024 and grant bail.

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2. The petitioner/appellant was charged for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C) and 29(1) of NDPS Act. The Trial Court, after trial, found the petitioner guilty of the offences punishable under Sections 8(c) r/w 20(b)(ii)(C) and 29(1) of NDPS Act and convicted and sentenced to undergo ten years rigorous imprisonment and to pay a fine of Rs.1,00,000/-, in default, to undergo one year simple imprisonment.

The petitioner has preferred the present appeal and sought for suspension of sentence and bail.

3. The learned counsel for the petitioner/appellant submitted that the case against the petitioner is that he was found to be in possession of 21 Kgs of ganja. According to the learned counsel for the petitioner, ganja is a natural drug and not synthetic drug. This Court in ***Ganesan Vs. The State*** in ***Crl.A.(MD).Nos.212 of 2020 etc., batch dated 15.10.2025***, has held that in the border line cases between 21 and 25 Kgs of ganja, unless there are proper measurements of the weight in respect of flowering or fruiting tops, the benefit of doubt shall be extended to the Accused and it can be brought to intermediate quantity instead of commercial quantity. This Court has considered the principles laid down by the Hon'ble Apex Court in ***Hira Singh Vs. Union of India*** reported in ***(2020) 20 SCC 272*** and also distinguished the natural drug and synthetic drug. According to the learned



counsel for the petitioner, in this case also, the samples represent leaves, fruiting tops and flowering tops. Therefore, had the respondent Police taken the proper measurement of the contraband, it would have fallen under intermediate quantity and not under commercial quantity. Hence, the learned counsel prays for suspension of sentence and bail to the petitioner/appellant.

4. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that the petitioner was found in possession of 21 Kgs of ganja and was tried and convicted for the said offence by the II Additional Special District Court for trial of NDPS Act cases, Madurai, in C.C.No.255 of 2020, by judgment dated 30.08.2024. The petitioner was imposed with a punishment of ten years rigorous imprisonment with a fine of Rs.1,00,000/-, in default to undergo one year simple imprisonment. The fine imposed by the Trial Court is not paid by the petitioner. The petitioner has certain previous cases including the cases under NDPS Act. Therefore, according to the learned Government Advocate, if the petitioner is released on bail, he will commit similar offences. Therefore, he strongly opposed to grant suspension of sentence and bail to the petitioner/appellant.

5. This Court has given its thoughtful consideration to the rival submissions put forth on either side.

6. It is the case of the prosecution that the petitioner was found in possession of 21 kgs of ganja. According to the prosecution, it is a commercial



quantity and therefore, the rigour of Section 37 of the NDPS Act would apply.

However, as submitted by the learned counsel for the petitioner/appellant, this

Court in **Ganesan's** case (cited supra) has clearly distinguished the principles laid down by the Hon'ble Apex Court in **Hira Singh's** case (cited supra) and held that in the border line cases between 21 and 25 Kgs of ganja, the weight of the bag, weight of flowering and fruiting tops and leaves have to be measured separately considering the stringent provisions of the NDPS Act. If such measurement was not taken, then, in the border line cases, the benefit of doubt shall be extended to the Accused to bring it to intermediate quantity instead of commercial quantity. In this case also, no such measurement was taken. The sample forwarded to Forensic laboratory discloses that it contains leaves, fruiting and flowering tops. Hence, this case also falls within the border line case and entitled to the benefit extended in **Ganesan's** case (cited supra).

7. Though the learned Government Advocate has brought to the notice of this Court that the petitioner has certain previous cases numbering to 16, the learned counsel for the petitioner submitted that all those cases ended up in acquittal, except two cases, out of which, one is pending for trial and the other case is not yet taken on file. The petitioner is in custody since the date of judgment of the Trial Court for about two years. Therefore, this Court is inclined to suspend the sentence imposed by the Trial Court and grant bail to the petitioner/appellant.



8. Accordingly, this Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the Criminal Appeal and the petitioner is ordered to be enlarged on bail on the following conditions:-

- i. The petitioner shall execute a bond for a sum of Rs.20,000/- (Rupees Twenty Thousand only) with two sureties each for a like sum to the satisfaction of the II Additional Special District Court for trial of NDPS Act cases, Madurai;
- ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;
- iii. The petitioner shall appear before the Trial Court, daily at 10.30 a.m., until further orders.
- iv. The petitioner shall file an affidavit before the respondent Police that he will not commit any offence of similar nature.

On violation of any of the above conditions by the petitioner, the respondent police shall move an application for cancellation of the bail.

19.08.2026
(S.K.,J.)

Lm



To

1. The II Additional Special District
Court for trial of NDPS Act cases, Madurai.

2. The Inspector of Police,
Koodalpudhur Police Station,
Madurai.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court.

4. The Central Prison,
Madurai.



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S.KARTHIKEYAN, J.

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Crl.M.P.(MD).No.6689 of 2026
in
Crl.A.(MD).No.375 of 2026

19.08.2026