



WEB COPY

CRL MP(MD) NO. 16



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17-08-2026

CORAM

THE HONOURABLE MR.JUSTICE S.KARTHIKEYAN

Crl.M.P(MD) No.16999 of 2026

in

Crl.A(MD) No.986 of 2026

Thangaperumal

Petitioner

Vs

The State of Tamilnadu,
Represented by the Inspector of Police,
Avaniyapuram Police Station
Madurai.
(Crime No.1448 of 2016)

Respondent

For Petitioner(s):

Mr.M.Jegadeesh Pandian

For Respondent(s):

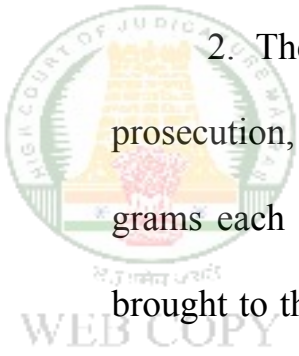
Mr.A.Robinson
Government Advocate (Crl.Side)

Prayer:

To suspend the sentence imposed on the petitioner / Appellant / Sole Accused namely Thangaperuma, S/o.Ramasamy, passed by the learned District and Sessions Court for Communal Clash Cases, Madurai in C.C.No.156 of 2018 dated 09.07.2026 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

ORDER

The petitioner/sole Accused was tried for the offence punishable under Section 8(c) r/w. Section 20(b)(ii)(B) of the NDPS Act and was found guilty and convicted for the offence punishable under Section 8(c) r/w. Section 20(b)(ii)(B) of the NDPS Act and sentenced to undergo five years of Rigorous Imprisonment and to pay a fine of Rs.75,000/-, in default, to undergo Simple Imprisonment for two years.



2. The learned counsel for the petitioner submitted that, as per the prosecution, the petitioner/appellant was found in possession of 300 packets containing 5 grams each of ganja, out of which samples were drawn only from 10 packets. Further, he brought to the notice of this Court the Standing Instructions issued by the Narcotics Control Bureau regarding the drawing of samples. In the said instructions, it is mentioned that the quantity to be drawn in each sample for chemical testing should be 5 grams in respect of all narcotic drugs and psychotropic substances, except in cases of opium, ganja and charas/hashish, where a quantity of 24 grams in each case is required for chemical testing. Further, it was brought to the notice of this Court that while drawing one sample in duplicate from a particular lot, it must be ensured that a representative quantity of the drug in equal quantity is taken from each package/container of that lot and mixed together to make a composite whole, from which the samples are drawn for that lot. According to the learned counsel for the petitioner, the said procedure was not followed in this case. Further, he contended that only two witnesses were examined before the Court and the said two witnesses were not cross-examined by the defence due to the absence of proper legal assistance. Hence, he prays for suspension of the sentence imposed on the petitioner, dated 09.07.2026.

3. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent submitted that the guidelines issued under Section 52A of the NDPS Act, 1985, if any, by the higher authorities, are only guiding in nature and their violation will not be fatal to the case of the prosecution. Further, he relied upon the judgment of the Hon'ble Apex Court in ***Bharat Aambale Vs. State of Chhattisgarh***, reported in (2025) 8 SCC 452 and the relevant



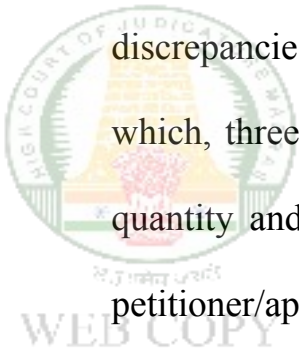
portion is extracted hereunder:

56.1 Although Section 52A is primarily for the disposal and destruction of seized contraband in a safe manner yet it extends beyond the immediate context of drug disposal, as it serves a broader purpose of also introducing procedural safeguards in the treatment of narcotics substance after seizure inasmuch as it provides for the preparation of inventories, taking of photographs of the seized substances and drawing samples therefrom in the presence and with the certification of a magistrate. Mere drawing of samples in presence of a gazetted officer would not constitute sufficient compliance of the mandate under Section 52A sub-section (2) of the NDPS Act.

56.2 Although, there is no mandate that the drawing of samples from the seized substance must take place at the time of seizure as held in Mohanlal (supra), yet we are of the opinion that the process of inventorying, photographing and drawing samples of the seized substance shall as far as possible, take place in the presence of the accused, though the same may not be done at the very spot of seizure.

56.5 Mere non-compliance of the procedure under Section 52A or the Standing Order(s) / Rules thereunder will not be fatal to the trial unless there are discrepancies in the physical evidence rendering the prosecution's case doubtful, which may not have been there had such compliance been done. Courts should take a holistic and cumulative view of the discrepancies that may exist in the evidence adduced by the prosecution and appreciate the same more carefully keeping in mind the procedural lapses.

4. The learned Government Advocate (Crl. Side) submitted that there are no

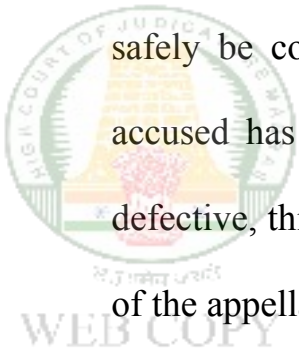


discrepancies in the drawing of samples. Further, the petitioner has five previous of which, three cases relate to below commercial quantity and two cases relate to commercial quantity and are pending trial and therefore, he strongly opposed the grant of bail to the petitioner/appellant.

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

6. It is the case of the prosecution that the petitioner was found in possession of 300 packets containing 5 grams of ganja and therefore, he was charged for the offence punishable under Section 8(c) r/w. Section 20(b)(ii)(B) of the NDPS Act. On careful perusal of the records, it is found that, out of the said 300 packets, 290 packets were in a shopper bag and the remaining 10 packets were found in a brown cover. Admittedly, the sample was drawn only from the 10 packets and not from the 300 packets cumulatively.

7. It is true that, as contended by the learned Government Advocate (Crl. Side), the violation or non-compliance with the guidelines issued by the higher officials under Section 52(A) of the NDPS Act, 1985, will not affect the case of the prosecution, but, at the same time, the Hon'ble Apex Court, in the very same judgment, at paragraph No.56.5, makes it very clear that the Court should adopt a holistic and cumulative view of the discrepancies that may exist in the evidence adduced by the prosecution and appreciate the same more carefully, keeping in mind the procedural lapses. In this case, a genuine doubt is raised by the defence regarding the nature of the contraband recovered and seized by the respondent Police. Had the sample been drawn from all the 300 packets or if all the 300 packets had been put together and the samples had been drawn by adopting a representative method, then it could



safely be concluded that the drugs are narcotic drugs and the possession thereof by the accused has to be answered properly. Since the drawing of samples itself is found to be defective, this Court is of the considered view that there appears to be a strong case in favour of the appellant.

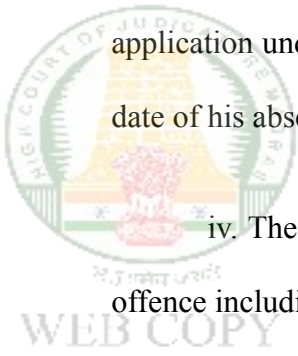
8. Though the learned Government Advocate (Crl. Side) brought to the notice of this Court that the petitioner has five more previous cases, from the submissions of the learned Government Advocate (Crl. Side), it is found that three cases were already disposed of and two cases are pending trial. Therefore, this Court records its satisfaction that there are materials to assume that the petitioner has not committed the offence and that he would not commit any offence in future.

9. 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 District and Sessions Court for Communal Clash 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 District and Sessions Court for Communal Clash Cases, Madurai, once in a month i.e. on the 1st working day of every month at 10.30 a.m., till the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an



application under Section 355 B.N.S.S. and shall appear before the trial Court on any other date the date of his absence, as directed by the trial Court.

iv. The petitioner shall file an affidavit before the respondent Police that he will not involved in any offence including the offence under the NDPS Act, in future.

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

17-08-2026

Indu

To

- 1.The District and Sessions Court for Communal Clash Cases,
Madurai.
- 2.The Inspector of Police,
Avaniyapuram Police Station
Madurai.
- 3.The learned Government Advocate (Crl.Side),
Madurai Bench of Madras High Court,
Madurai.