



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Tenth day of August Two Thousand Sixteen

PRESENT

The Hon`ble Dr.Justice P.DEVADASS

CRL MP (MD) No.5406 of 2016
IN
CRL A (MD) No.243 of 2016

MURUGAN

... APPELLANT/ACCUSED NO.1

Vs

STATE REP BY
THE INSPECTOR OF POLICE
PERAIYUR POLICE STATION, MADURAI DISTRICT.
(IN CRIME NO.17/2003)

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed by the 2nd Additional NDPS Act Cases Madurai passed in C.C. No.223 of 2006 dated 20.6.2016 pending disposal of the Criminal Appeal (MD) No.243 of 2016.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S S.MUNIYANDI, Advocate for the petitioner and of M/S.P.KANDASAMY, the Government Advocate (Crl.Side) takes Notice on behalf of the Respondent the Court made the following order:-

A1 in C.C.No.223 of 2006 on the file of the II Additional Special Judge under NDPS Act Cases at Madurai, while canvassing the correctness of conviction and sentence seeks appeal bail under Section 389(1) of Cr.P.C.

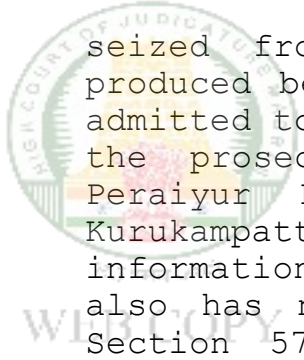
2. In the said Court, after trial, on 20.06.2016, A1 was convicted under Section 8(c) r/w. 20(b)(ii)(B) of NDPS Act and he was sentenced to 5 years R.I. and fined Rs.20,000/-, i/d., 6 months R.I.

3. He has paid the fine amount. Now, he is undergoing the sentence in Central Prison, Madurai.

4. The learned counsel for the petitioner/appellant would contend that the prosecution has thoroughly failed to establish the charge framed as against the petitioner/A1 beyond all reasonable doubts. The prosecution suffers from many legal infirmities. There is clear cut violation of requirement of law.

<https://hcservices.ecourts.gov.in/hcservices/>

5. The learned counsel for the petitioner contended that the case property viz., the bag containing 15 kgs. of ganja has not been



seized from the petitioner. Further, the case-properties were produced before the Court nearly after four months. This has been admitted too by the investigating officer. Further, the very case of the prosecution is on receipt of information, the Inspector, Peraiyur Police Station rushed to the sugarcane field in Kurukampatti in Usilampatti Taluk. However, the receipt of said information has not been properly recorded. And superior officer also has not been informed. Further, the mandatory provision of Section 57 of the Act viz., after the seizure was over, the investigating officer has not submitted his report to immediate superior officer. So far the petitioner has not been involved in any criminal case. This is the first case as against him. He will not abscond.

6. Prosecution filed counter.

7. The learned Government Advocate (Crl.side) submitted that the trial Court has considered the entire evidence in its proper perspective and analysed the entire issue and recorded the conviction and imposed upon him the sentence. It cannot be faulted.

8. I have anxiously considered the rival submissions, perused the impugned judgment and the materials on record.

9. The quantity involved in this case is not commercial quantity. It has been contended that ganja has not been recovered from A1 and the case-property also has been produced before the Court after four months. No recording of receipt of information by the police and report on the seizure has not been submitted to the superior officer.

10. There are eminently arguable points are involved in this criminal appeal. Further, there is no prior case as against the petitioner. There is no allegation that he will abscond or flee away from justice. Further, it will take some time for the disposal of this criminal appeal. Thus, I find prima facie case in his favour. I am inclined to grant him bail.

11. In view of the above, ordered as under:

(i) Appeal bail granted.

(ii) His sentence of imprisonment alone is suspended.

(iii) There shall be two sureties, they and the petitioner shall execute a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) each to the satisfaction of the learned II Additional Special Judge, Special Court for NDPS Act Cases, Madurai.

(iv) The petitioner shall appear before the Inspector of Police, Peraiyur Police Station on every Friday at 10.30 a.m. until further orders.

sd/-

10/08/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE 2ND ADDITIONAL SPECIAL JUDGE UNDER NDPS ACT CASES
MADURAI

WEB COPY

2. DO THROUGH THE PRINCIPAL SESSIONS JUDGE
MADURAI DISTRICT

3. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

4. THE SUPERINTENDENT
CENTRAL PRISON, MADURAI

5. THE INSPECTOR OF POLICE
PERAIYUR POLICE STATION, MADURAI DISTRICT.

+1. C.C. to M/S S.MUNIYANDI Advocate SR.No.43405

RL/7C/2P/SKN/SK/SARI/12/8/2016

ORDER
IN
CRL MP (MD) No.5406 of 2016
IN
CRL A (MD) No.243 of 2016
Date :10/08/2016