



WEB COPY

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

Friday, the Twelfth day of August Two Thousand Sixteen
PRESENT

The Hon`ble Dr.Justice P.DEVADASS

CRL MP (MD) No.6364 of 2016

IN

CRL A(MD) No.279 of 2016

SUGUMAR

... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

STATE REP.BY

THE INSPECTOR OF POLICE

N.I.B.C.I.D, DINDIGUL DISTRICT.

CR. NO.61/2005

... RESPONDENT/RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence passed by the judgement dated 26.07.2016 made in C.C. No.131 of 2009 on the file of the 2nd Additional District and special judge for NDPS Cases, Madurai and enlarge the petitioner on bail pending disposal of the above appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S R.GANDHI, Advocate for the petitioner and of MR.P.KANDASAMY, Govt.Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-

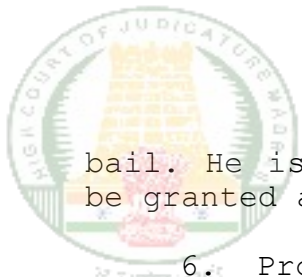
The sole accused in the calender case in C.C.No.131 of 2009 on the file of the II Additional Special Judge under NDPS Act, Madurai, challenging his conviction and sentence, seeks appeal bail.

2. After trial, the petitioner has been convicted under Section 8(c) r/w. 20(b)(ii)(C) of NDPS Act and he was sentenced to 2 ½ years R.I. and also fined Rs.10,000/-, i/d., 1 month S.I.

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

4. According to the learned counsel for the petitioner/appellant, there are many legal infirmities in this case, both in the investigation as well as in recording the conviction by the Court. The investigation in this case is doubtful. It becomes more relevant when the prosecution is made under the stringent NDPS Act.

5. The learned counsel for the petitioner contended that with regard to the investigation, there is contradictory evidence of P.Ws.3 and 4. P.W.4 had admitted that he has not visited the scene place. The witnesses have also admitted that there was no preliminary verification as to the truth and genuineness of the case. In these type of cases, search and seizure is very important. It has also been contended that in the present case, his arrest, search and seizure are all required to be viewed with suspicion. There is prima facie case in favour of the petitioner. Through out the trial court proceedings, petitioner was on



bail. He is not having any previous case. In the circumstances, he may be granted appeal bail.

6. Prosecution filed counter. The learned Government Advocate (Crl.side) also submitted that fair investigation has been done, voluminous evidence has been adduced. Rightly the Special Judge has accepted the evidence and convicted and sentenced the petitioner.

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

8. In this case, 5 kgs. of ganja is involved. It is not a commercial quantity. The several infirmities and non-compliance of mandatory provisions of law has been argued by the learned counsel for the petitioner. It has also been contended that there are material inconsistency in the evidence of P.Ws.3 and 4. Even the arrest, search and seizure has been assailed as doubtful. Eminently certain arguable points are involved in this criminal appeal. Through out the trial, he was on bail. He is not involved in any other previous case. There is no allegation that if the petitioner is let on bail, he will flee away from justice or abscond. It is a fact that it will take some time for the disposal of this criminal appeal.

Considering all the above aspects, I find prima facie case in favour of the petitioner. I am inclined to grant him appeal bail.

9. It is 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.15,000/- (Rupees Fifteen Thousand only) each to the satisfaction of the learned II Additional District and Special Judge for NDPS Act Cases, Madurai.

(iv) The petitioner shall appear before the respondent police on every Friday at 10.30 a.m. until further orders.

sd/-

12/08/2016

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

TO

- 1 THE II ADDITIONAL SPECIAL JUDGE FOR NDPS ACT CASES @ MADURAI.
 - 2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
 - 3 THE INSPECTOR OF POLICE, N.I.B.C.I.D, DINDIGUL DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to M/S R.GANDHI Advocate SR.No.44203

ORDER IN

CRL MP(MD) No.6364 of 2016

IN

CRL A(MD) No.279 of 2016

Date :12/08/2016