



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

Tuesday, the Seventh day of March Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP(MD) No.1132 of 2017
IN
CRL A(MD) No.39 of 2017

BOOMI ALIAS
BOOMINATHAN

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE (L &O),
C-5, KARIMEDU POLICE STATION,
MADURAI DISTRICT,
CR NO. 2146 OF 2006.

... 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 Special Court for NDPS Act cases Madurai passed in C.C. No. 60 of 2008 dated 30.01.2017 pending disposal of the Criminal Appeal.

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 MR.P.KANDASAMY, Govt. Advocate (Crl.side) on behalf of the Respondents the court made the following order:-

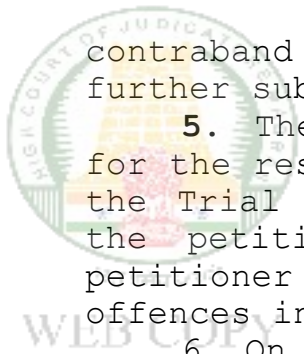
The accused in C.C.No.60 of 2008, on the file of the learned II Additional Special District Judge, (NDPS Act Cases), Madurai, while challenging his conviction and sentence, seeks appeal bail under Section 389(1) Cr.P.C.

2. After trial, they have been convicted and sentenced as under:

Conviction	Sentence
Section 8(C) r/w 20(b)(ii)(B) of NDPS Act,	14 Months R.I. + Fine of Rs.10,000/-, i/d 6 Months S.I.

3. Fine amount has been paid.

4. The learned counsel appearing for the petitioner submitted that there are very many legal infirmities in the conviction recorded by the Trial Court and they are required to be revised. He also submitted that the seized contraband was not handed over to the Court in time, as per the NDPS Act, and the factum of seized



contraband also not reported to the higher officials. He would further submit that one sample was taken in this case for analysis.

5. The learned Government Advocate (Criminal Side) appearing for the respondent submitted that appreciating the evidence adduced, the Trial Court has rightly convicted and appropriately sentenced the petitioner. However, he would further submit that the petitioner is having bad antecedents in commission of same type of offences in this case.

6. On perusal of the judgment of the trial court and grounds of appeal would reveal the fact that there are certain arguable points involved in this appeal. It is admitted that petitioner was on bail during the trial of the case. The petitioner is in custody from the date of the judgment ie., on 30.01.2017. P.W.3 has also admitted that contraband was ceased on 12.12.2006, but the same was handed over to the Court only on 03.01.2007.

7. In the facts and circumstances, perusing the impugned Judgment and the materials on record, I am of the view that certain eminently arguable points are involved in this criminal appeal. They are required to be examined in detail in the main criminal appeal. Further, it will take some time for the disposal of the criminal appeal.

8. On considerations, ordered as under:

(i) Appeal bail granted.

(ii) Substantial sentence alone is suspended on condition that the each petitioners shall execute a bond for Rs.15,000/- (Rupees Fifteen thousand only) with two sureties for the like sum each to the satisfaction of the learned II Additional Special District Judge, (NDPS Act Cases), Madurai.

(iii) The petitioners shall appear before the said Court on the first working day of every month at 10.30 a.m., until further orders.

sd/-

07/03/2017

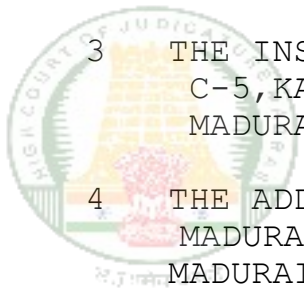
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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 II ADDITIONAL SPECIAL DISTRICT JUDGE
NDPS ACT CASES,
MADURAI

2 THE SUPERINTENDENT OF PRISION
CENTRAL PRISON,
MADURAI



3 THE INSPECTOR OF POLICE (L &O),
C-5, KARIMEDU POLICE STATION,
MADURAI DISTRICT,

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

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+1. C.C. to M/S.S.MUNIYANDI Advocate SR.No.12967

ORDER
IN
CRL MP (MD) No.1132 of 2017
IN
CRL A (MD) No.39 of 2017
Date :07/03/2017

MPK
KK-CM-MSA-07.03.2017-3P-6C