



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

Wednesday, the Twentieth day of December Two Thousand Seventeen

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PRESENT

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

CRL MP (MD) No.11517 of 2017

IN

CRL A (MD) No.510 of 2017

BOOMI @ BOOMINATHAN

... PETITIONER/ APPELLANT

Vs

STATE REP.BY

THE INSPECTOR OF POLICE,
C-5, KARIMEDU POLICE STATION,
MADURAI DISTRICT.

IN CRIME NO.1145 OF 2012.

... RESPONDENT/ RESPONDENT

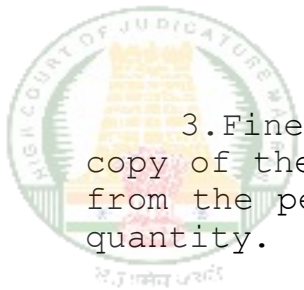
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to SUSPEND THE SENTENCE imposed by the II Additional Special District and Sessions Judge for E.C. and N.D.P.S. Act Cases, Madurai passed in C.C.No.87 of 2013 dated 11.12.2017, pending disposal of the above Criminal Appeal and thus render justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.S.SUKUMAR, Advocate for M/S.N.SYED ALI, Advocate for the petitioner and of M/S.C.MAYILVAHANA RAJENDRAN, Additional Public Prosecutor on behalf of the Respondent, While admitting the CRL.A., the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the petitioner / sole accused/ Appellant, praying to suspend the sentence of imprisonment imposed on him by the learned II Additional Special District and Sessions Judge for E.C. and N.D.P.S Act Cases, Madurai, in its order dated 11.12.2017 in Spl.C.C.No.87 of 2013 pending disposal of the above Criminal Appeal.

2.After trial, he has been convicted and sentenced as under:

Conviction	Sentence
Section 8(c) r/w 20(B) of NDPS Act	One year R.I. + Fine of Rs.10,000/- i/d 6 months S.I.



3. Fine amount has been paid by the petitioner / appellant and copy of the receipt is also produced. The alleged contraband seized from the petitioner / appellant is 2 kgs, which is below commercial quantity.

4. The learned counsel appearing for the petitioner / appellant submitted that there is a contradiction between the evidence of P.W.1 & P.W.3 in respect of the presence of the informant at the time of occurrence. There is a delay of 6 days to produce the contraband to the concerned Court and there is no explanation for the said delay. The provisions of Section 57 of NDPS Act was not properly complied with in respect of recovery of the contraband. No private witnesses were examined, though they were available at the time of occurrence. He further submitted that the petitioner / appellant is having arguable points in this appeal and he is having a prima facie case in his favour and the petitioner.

5. The learned Additional Public Prosecutor appearing for the respondent would submit that the Trial Court has rightly convicted the accused on the basis of the evidence adduced by the prosecution during trial and the petitioner / appellant is not having any prima facie case in the appeal. However, the learned Additional Public Prosecutor has no serious objection to grant an order of suspension since considering the quantum of punishment awarded by the Trial Court and seized contraband is only below commercial quantity.

6. This Court heard the submissions made by the learned counsel appearing for the petitioner / appellant and the learned Additional Public Prosecutor appearing for the respondent and also perused the materials available on record, including the impugned Judgment of the Court below.

7. Considering the above facts and circumstances of the case, this Court is of the view that there are certain arguable points involved in this Criminal Appeal and they are required to be examined in detail in the main Appeal. I see prima facie case in favour of the petitioner / appellant, for grant of an order of suspension.

8. On considerations, ordered as under:-

(i) Appeal bail granted.

(ii) Sentence of imprisonment ordered by the trial Court alone is suspended, till the disposal of the appeal.

(iii) There shall be two sureties and they shall execute a bond for Rs.15,000/- (Rupees Fifteen Thousand Only) each to the satisfaction of the learned II Additional Special District and Sessions Judge for E.C. And N.D.P.S Act Cases, Madurai.



(iv) The petitioner / appellant shall appear before the said Court on the first working day of every month at 10.30 am., until further orders.

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sd/-
20/12/2017

/ TRUE COPY /

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

TO

1. THE II ADDITIONAL SPECIAL DISTRICT AND
SESSIONS JUDGE FOR E.C. AND N.D.P.S. ACT CASES,
MADURAI.
 2. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
 3. THE INSPECTOR OF POLICE,
C-5, KARIMEDU POLICE STATION, MADURAI DISTRICT.
 4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to M/S.J.JEYA ARON RAJA, ADVOCATE, SR NO.36656

ORDER
IN
CRL MP (MD) No.11517 of 2017
IN
CRL A (MD) No.510 of 2017
Date : 20/12/2017

MS/VR/SAR.4/20.12.2017/3P.6C