



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

Tuesday, the Fourth day of April Two Thousand Seventeen
PRESENT

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

CRL MP(MD) No.2585 of 2017

IN

CRL A(MD) No.95 of 2017

WEB COPY

KALIDOSS

... APPELLANT/ACCUSED NO.2

Vs

STATE REP.BY

THE INSPECTOR OF POLICE

PALANI TOWN POLICE STATION,

DINDIGUL DISTRICT

(CRIME NO. 1668/2002 &

CRIME NO.1669/2002)

... 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 of imprisonment imposed by the Learned II Additional NDPS Court, Madurai in C.C.No.73/2004 dated 15/11/2016, moreover the appellant paid the fine amount Rs.15,000/- imposed by the Learned II Additional District & Sessions NPDS Court, Madurai and enlarge the petitioner/appellant on bail pending disposal of the above crimnal 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.RAJA PRABU, Advocate for the petitioner and of M/S P.KANDASAMY, Government Advocate on behalf of the Respondents the court made the following order:-

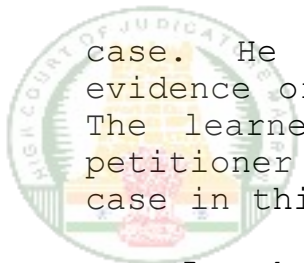
The accused No.2 in C.C.No.73 of 2004, on the file of the learned II Additional District and Sessions NDPS Court, Madurai, while challenging his conviction and sentence, seeks appeal bail under Section 389(1) Cr.P.C.

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

Conviction	Sentence
Section 8(c) r/w 20(b)(ii)(c) NDPS Act	3 years R.I. + Fine Rs.15,000/-, i/d 6 months S.I.

3. Fine amount has been paid.

4.The learned counsel for the petitioners 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
<https://hcservices.ecourts.gov.in/hcservices/online-counselor> a delay of 36 days in sending the samples of the contraband to the chemical examiner and there is no proper explanation for the said delay, which is fatal to the prosecution



case. He further submitted that there is contradiction between the evidence of P.W.3 and P.W.4 in respect of the seal of the sample. The learned counsel for the petitioner also submitted that the petitioner is having arguable points and also having a prima facie case in this appeal.

5. The learned Government Advocate (Criminal Side) submitted that appreciating the evidence adduced, the Trial Court has rightly convicted and appropriately sentenced the petitioner.

6. 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. On considerations, ordered as under:

- (i) Appeal bail granted.
- (ii) Substantial sentence alone is suspended on condition that the petitioners shall execute a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties for the likesum each to the satisfaction of the learned II Additional District and Sessions NDPS Court, 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/-

04/04/2017

/ TRUE COPY /

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

TO

1.THE II ADDITIONAL DISTRICT AND SESSIONS
NDPS COURT, MADURAI.

2.THE INSPECTOR OF POLICE
PALANI TOWN POLICE STATION,DINDIGUL DISTRICT.

3.THE SUPERINDENT, CENTRAL PRISON, MADURAI.

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

+1. C.C. to M/S.S.RAJA PRABU Advocate SR.No.19234

ORDER IN
CRL MP(MD) No.2585 of 2017
IN
CRL A(MD) No.95 of 2017
Date :04/04/2017