



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

Thursday, the Twentieth day of April Two Thousand Seventeen

PRESENT

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

CRL MP(MD) No.2704 of 2017
IN
CRL A(MD) No.100 of 2017

PANDI @ SORNAPANDI

... PETITIONER/1st ACCUSED

Vs

THE INSPECTOR OF POLICE

B-6-JAIHINDPURAM POLICE STATION, MADURAI CITY,

CRIME NO.417/2001

... 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 imposed by the Learned II Additional District and Sessions Judge for Exclusive Trial of NDPS Act Cases, Madurai in CC.No.369/2006 dated 14/03/2017 pending disposal of the above Crl.A

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.M.DINESH, Advocate for the petitioner and of Mr.P.Kandasamy, Government Advocate (Crl.side) on behalf of the Respondents, the court made the following order:-

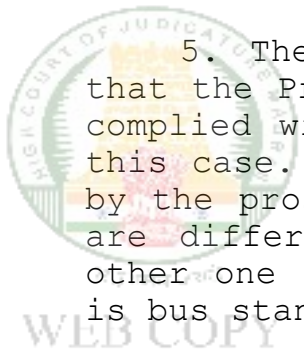
The accused No.1 in C.C.No.369 of 2006, on the file of the learned II Additional Special District and Sessions Judge, Special Court for Exclusive Trial for NDPS Act Cases, Madurai, while challenging his conviction and sentence, seeks appeal bail under Section 8 © r/w 21 of NDPS Act.

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

Conviction	Sentence
Section 8(c) r/w 21 of NDPS Act	3 years R.I. + Fine Rs.20,000/-, i/d. 1 year S.I.

3. Fine amount has been paid.

4.The learned counsel for the appellant is present. The Learned Government Advocate appearing for the respondent filed counter today. Heard both sides in respect of suspension of sentence application.



5. The learned counsel for the petitioner/appellant contended that the Provision under Sections 43, 50 and 57 of NDPS Act are not complied with in this case and there is no independent witness in this case. He is further states that the place of occurrence stated by the prosecution witness is not proved. It is stated that there are different places of occurrence i.e one is railway gate, the other one is near by the railway gate and another occurrence place is bus stand.

6. The learned counsel for the petitioner further states that there is a delay in sending the contraband to the chemical analysist and no reason is assigned for the delay by the prosecution in the prosecution evidence. There is a contra evidence in respect of the fact that the contraband was kept in a polythene cover as per the evidence of P.W.3. P.W.1 has stated that the contraband was kept in a brown colour paper and there is material contradiction of the said polythene paper. The petitioner is having a prima facie case in this appeal.

7. The learned Government Advocate (Crl.side) on instructions would submit that the trial court has rightly convicted the accused based on the evidence adduced by the prosecution and the petitioner is not having any prima facie case in this appeal.

8. 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 petitioner 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 Judge Court for Exclusive Trial NDPS Act Cases, Madurai.

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

sd/-
20/04/2017

/ TRUE COPY /

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



TO

1 THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE
FOR EXCLUSIVE TRIAL OF NDPS ACT CASES, MADURAI

2 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI

3 THE INSPECTOR OF POLICE
B-6-JAIHINDPURAM POLICE STATION, MADURAI CITY

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

+1. C.C. to M/S.M.DINESH Advocate SR.No.20681

SM:PM-PN:SAR 4:21.4.2017:3P/6C

ORDER
IN
CRL MP(MD) No.2704 of 2017
IN
CRL A(MD) No.100 of 2017
Date :20/04/2017