



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

Friday, the Sixteenth day of June Two Thousand Seventeen

PRESENT

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

CRL MP(MD) No.3975 of 2017
IN
CRL A(MD) No.142 of 2017

MURUGESAN ... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

STATE REP.BY,
THE INSPECTOR OF POLICE,
PALANI TALUK POLICE STATION,
DINDIGUL DISTRICT,
CRIME NO.237/2009 ... 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 imposed on the petitioner on the file of the Learned II Additional Special Court, EC and NPDS Act Cases, Madurai by its Judgement in C.C.No.29/2009 dated 21/04/2017 and enlarge her on bail pending disposal of the above Crl.A.

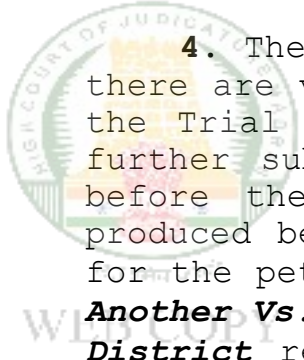
Order : This petition coming on for admission upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.M.JEGADEESH PANDIAN, Advocate for the petitioner and of MR.C.MAYILVAHANA RAJENDRAN, Additional Public Prosecutor, on behalf of the Respondent, while admitting the Crl.A., the court made the following order:-

The accused in C.C.No.29 of 2009, on the file of the learned II Additional Special Court, EC and NDPS Act Cases, 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
Under Section 8(c) r/w 20(B) (ii) (b) of NDPS Act	5 Years R.I. + Fine 20,000/- i/d. 6 Months S.I.,

3. Fine amount was also paid and a receipt has also been produced to that effect.



4. The learned Counsel appearing for the petitioner states that there are very many legal infirmities in the conviction recorded by the Trial Court and they are required to be revised. He would further submit that there is a delay in producing the contraband before the concerned Court, which was seized on 08.04.2007 and produced before the Special Court only on 29.06.2007. The counsel for the petitioner refers a decision of this Court in **Sivakumar and Another Vs. The Inspector of Police, NIBCID, Nagapattinam, Thanjavur District** reported in (2011 (1) MWN (Cr.) 591) for the proposition that the delay would lead to suspicion over the prosecution case. The petitioner further contends that there is a suspicion in registering the case also, since the crime number of the FIR is mentioned in the 'Athachi' itself, which was prepared before the registration of the case. He also submitted that the petitioner is having a prima facie case in his favour.

5. The learned Additional Public Prosecutor appearing for the respondent states that on appreciating the evidence adduced, the Trial Court has rightly convicted and appropriately sentenced the petitioner / accused and the petitioner is not having any prima facie case. He would further submit that prosecution witnesses were not cross-examined by the petitioner herein. It is also admitted that the trial Court has not heard the argument of the accused or his counsel in pronouncing the judgment of conviction.

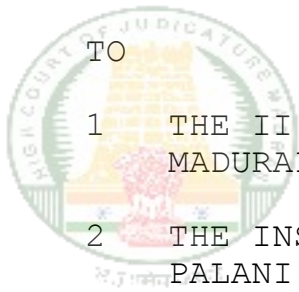
6. In the facts and circumstances, perusing the impugned Judgment and the materials on record, I am of the view that certain eminently arguable points are involved in this criminal appeal. They are required to be examined in detail in the main criminal appeal. Further, it will take some time for the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

7. On considerations, ordered as under:

- (i) Appeal bail is granted.
- (ii) Substantial sentence alone is suspended on condition that the petitioner shall execute a bond for Rs.15,000/- (Rupees Fifteen thousand only) with two sureties each for the like sum each to the satisfaction of the learned II Additional Special Court, EC and NDPS Act Cases, Madurai.
- (iii) The petitioner shall appear before the said Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

sd/-
16/06/2017

/ TRUE COPY /



TO

1 THE II ADDITIONAL SPECIAL COURT, EC AND NDPS ACT CASES,
MADURAI.

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

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

4 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

+1. C.C. to M/S.M.JEGADEESH PANDIAN Advocate SR.No.24583

mpk

CSL/PM-PN/SAR-I/20.06.2017 : 3P/6C

ORDER

IN

CRL MP(MD) No.3975 of 2017

IN

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Date :16/06/2017