

BAIL SLIP

The Appellant/Accused viz ramesh aged 24 son of Ponnusamy, was directed to be released on bail, as per order of this court dated 18.04.2012 in Crl Mp.1 of 2012 in Crl.A.No.271 of 2012.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2018

CORAM

THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

Crl.A.No.271 of 2012

Ramesh .. Appellant / Accused
Vs.

State Rep. by Inspector of Police
NIBCID, Chennai. .. Respondent / Complainant

Prayer:- Criminal Appeal filed under Section 374(2) Cr.P.C., to set aside the conviction and sentence passed by the Principal Special Judge, Special Court EC & NDPS Act, Chennai, dated 10.04.2012 made in C.C.No.64 of 2005.

For Appellant : Mr.M.Shajahan

For Respondent : Mrs.M.Prabavathi Ganesh Ram
Additional Public Prosecutor

JUDGMENT

This Criminal Appeal is directed against the Judgment of the Judgment of the Special Court, Chennai, dated 10.04.2012 in C.C.No.64 of 2005, convicting and sentencing the appellant / accused to undergo RI for two years and to pay a fine of Rs.25,000/-, in default to undergo RI for six months for possessing cannabis weighing 5.500 Kgs for the offence under Section 8(c) r/w 20 (b) (ii) (B) of NDPS Act, 1985.

2. The case of the prosecution is that on information received from the informant, the accused was found in possession of 5.500 Kgs of Cannabis at about 8 a.m on 03.10.2004 at the juncture of Besant road and Sivarajapuram, Triplicane, Chennai. The Cannabis was recovered from the accused and after following the procedure charge sheet was filed by NIB CID.

3. The trial Court after affording opportunity by framing charges and then questioning the accused as to the incriminating evidence, analysed the evidence and convicted and sentenced the accused as aforesaid.

4. The learned counsel appearing for the appellant contends that there is delay in sending the property to the Court and there is also discrepancy with respect to writing of mahazar and therefore the accused is entitled to the benefit of doubt.

5. The learned Additional Public Prosecutor per contra argued that the trial Court after analysing the evidence convicted the accused for possessing the in-between quantity of Cannabis and the same does not warrant any interference.

6. No doubt there is delay of 23 days in sending the contraband to the Court. On perusal of Form-95, which has been marked as Ex.P.10 discloses that the property was produced before the Judicial Magistrate concerned on the very day of seizure and he made endorsement to produce the same before the regular Court. P.W.2 and P.W.3, Sub-Inspector and the Head Constable have categorically deposed that after receipt of the intimation from the informant, permission of the superior was obtained and after recording the same in the Register, they proceeded to the spot and snapped the accused and recovered the contraband from him. According to them, they strictly followed the procedure as laid down under the Act and Rules. There is no reason to disbelieve the evidence of above witnesses.

7. Another contention with respect to discrepancy with respect to the person who wrote the mahazar cannot be given much weight in the light of the evidence of P.W.3, the Head Constable that the constable Mahalingam who accompanied them wrote the mahazar. Therefore the trial Court has rightly found the accused guilty for the offence under Section 8 (c) r/w 20 (b) (ii) (B) of NDPS Act.

8. Coming to the sentence admittedly the appellant has been in custody for 43 days in this case. He was aged only 24 years at the time of occurrence and now he is 42 years. The learned Additional Public Prosecutor fairly concedes that there is no bad antecedence as against the appellant except involvement in this case.

9. The learned counsel appearing for the appellant argued that the appellant is the only bread winner having his wife and two children. Considering the above mentioned facts, this Court is of the considered view that modifying the sentence will serve

the ends of justice.

10. In the result, this Criminal Appeal is partly allowed confirming the conviction made on the accused for the offence under Section 8 (c) r/w 20 (b) (ii) (B) of NDPS Act by the trial Court and modifying the sentence as follows :

"The appellant / accused is sentenced to undergo the period already undergone and to pay a fine of Rs.50,000/-, in default to undergo RI for two months.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

tsvn

To

1. The Principal Special Judge,
Special Court EC & NDPS Act,
Chennai.
2. The Superintendent, central prison, puzhal, chennai.
3. The Public Prosecutor
High Court of Madras.
4. The inspector of Police, NIBCID, Chennai
5. The Section Officer, Criminal Section,
High Court, Madras.

+1cc to Mr.M.SHAHJAHAN, Advocate, S.R.No. 25814

CrI.A.No.271 of 2012

SKS (CO)
TR(23/04/2018)

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