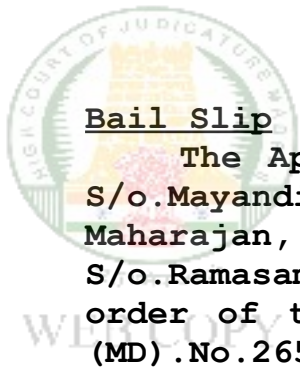




Bail Slip

The Appellants/Accused 1 to 4 namely 1) Ayyar, aged 35 years, S/o.Mayandi Thevar, 2) Sellam, aged 30 years, S/o.Karuppathevar, 3) Maharajan, aged 40 years, S/o.Mookathevar, 4) Selvam, aged 35 years, S/o.Ramasamy Thevar, were directed to be released on bail as per the order of this Court dated 09.09.2009 in MP(MD).No.1/2009 in Crl.A (MD).No.265/2009 on the file of this Court.

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL A (MD) No.265 of 2009

1.Ayyar
2.Sellam
3.Maharajan
4.Selvam

... Appellants / Accused Nos.2 to 5

Vs.

State, through Inspector of Police,
NIB - CID, Theni District. ... Respondent / Complainant
(Crime No.141 of 2002)

Prayer : This Criminal Appeal is filed under Section 374 of Criminal Procedure Code, against the judgment and conviction passed by the learned Special District and Sessions Judge for NDPS Act Cases, Madurai in C.C No.800 of 2003 dated 01.09.2009, convicting the appellants for the alleged offence under Section 8(c) r/w.20(b) (ii) (B) of NDPS Act and sentenced them to undergo three years rigorous imprisonment and to pay fine of Rs.5,000/- in default of payment of fine to undergo one month simple imprisonment.

For Appellants : Mr.M.Jegadeesh Pandian

For Respondent : Mr.A.Robinson
Government Advocate (crl.side)

JUDGMENT

The appellants herein were convicted for the offences under Section 8(c) r/w 20(b)(ii) (B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to three years rigorous imprisonment and levied with fine of Rs.5,000/- vide



judgment dated 01.09.2009 in C.C No.800 of 2003 on the file of the learned Special District and Sessions Judge for NDPS Act cases, Madurai. Questioning the same, this appeal has been filed.

2. When the matter was taken up for hearing, the learned counsel appearing for the appellants submitted that out of the four appellants three of them died. The second appellant alone is alive. But then, this is not fully confirmed by the prosecution. The appellants counsel would submit that the appellants had spent about more than 100 days in prison at the stage of the investigation. The appellants' counsel submit that he would not challenge the conviction rendered by the court below and that he would be satisfied if some leniency is shown in the matter of punishment.

3. The occurrence had taken place way back in the year 2002. The quantity of the contraband recovered from the appellants is below the commercial quantity. For the last 17 years, they had not come under any adverse notice of the respondent police. Therefore, I am of the view that even while sustaining the conviction and fine imposed on them, the sentence of imprisonment can be modified and reduced to the period already undergone by them.

4. With this modification in the matter of sentence, this appeal is partly allowed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

Skm

To

1. The Special District and Sessions Judge for NDPS Act Cases, Madurai.

2. The Inspector of Police, NIB - CID, Theni District.

3. The Superintendent, Central Prison, Madurai.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.