



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

Thursday, the Twenty First day of March Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.1515 of 2019

IN

CRL A(MD) No.463 of 2008

RAMAR

... PETITIONER/APPELLANT

Vs

STATE THROUGH
THE INSPECTOR OF POLICE
NIBCID POLICE, THENI DISTRICT.
Crime No.74/2002

... 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 in the judgment dated 22/10/2008 made in C.C.NO.443 of 2002 on the file of the Learned Special District and Sessions Judge for NDPS Act Cases, Madurai and enlarge the petitioner on bail pending disposal of the above Criminal Appeal before this Honourable Court.

PRAYER IN CRL A(MD) No.463 of 2008:

To prefer this memorandum of grounds of appeal against the Judgment and Conviction passed by the learned Special District and Sessions Judge (For NDPS Cases), Madurai in C.C.No.443 of 2002 dated 22.10.2008 convicting him for the alleged offence under Section 8(C) r/w 20(b)(ii)(B) of NDPS Act and sentenced him to under go three years rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo one month simple imprisonment.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.B.PANDIYARAJAN, Advocate for the petitioner and of Mr.A.ROBINSON, Government Advocate(criminal side) on behalf of the Respondent, the court made the following order:-

The learned counsel for the petitioner submitted that the petitioner/sole accused has been convicted by the learned Special District and Sessions Judge for NDPS Act Cases, Madurai, in C.C.No.443 of 2002, dated 22.10.2008 for the alleged offence under Section 8(C) r/w 20(b)(ii)(B) of NDPS Act and sentenced to undergo rigorous imprisonment for 3 years and also to pay a fine of Rs.5,000/-, in default to undergo simple imprisonment for one month.



2.It is submitted by the learned counsel for the petitioner that the petitioner filed a petition for suspension of sentence and the same was allowed in Crl.M.P.(MD)No.1 of 2008, dated 05.11.2008 and thereafter, due to poverty, the petitioner shifted his family to Kerala for survival and hence, he could not able to obey the condition imposed in Crl.MP(MD)No.1 of 2008, therefore, the order of suspension of sentence was cancelled and NBW was issued against the petitioner by this Court and the petitioner was remanded to judicial custody and now, he is in jail.

3.It is submitted by the learned Government Advocate (Criminal side) that this court on 05.11.2008 has granted suspension of sentence to the petitioner and subsequently, due to non-cooperation of the petitioner in disposing the case, this court issued warrant and he was secured on 03.08.2018 and now, the petitioner is in Central Prison, Madurai and hence, the petitioner is not entitled for suspension of sentence at this stage and prays for dismissal of this petition.

4.This court has carefully considered the rival contentions put forward on either side and also perused the materials available on record.

5.It is seen from the records that the petitioner has shifted his family to Kerala for livelihood and due to it, he could not able to comply with the condition imposed by this court in Crl.M.P(MD) No.1 of 2008. It is also seen from the records that the petitioner is the sole bread winner of the family and the entire family is depending upon the income of the petitioner and the petitioner is in jail from 22.07.2018. In view of the above circumstances, this court is of the considered view that the petitioner is entitled to the relief of grant of suspension of sentence.

6.Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that on his executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for a like sum to the satisfaction of the Special District and Sessions Judge for NDPS Act Caes, Madurai and on further condition that the petitioner shall appear before the said court on the first working day of 1st and 3rd week of every month at 10.30 am, pending appeal.

sd/-
21/03/2019

/ TRUE COPY /



TO

1. THE SPECIAL DISTRICT AND
SESSIONS JUDGE FOR NDPS ACT CASES, MADURAI.

2. THE INSPECTOR OF POLICE,
NIBCID, POLICE, THENI DISTRICT.

3. THE SUPERINTENDENT,
CENTRAL PRISON FOR MEN, MADURAI.

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

+1. C.C. to Mr. B. PANDIYARAJAN Advocate SR.No.5267

ORDER
IN
CRL MP (MD) No.1515 of 2019
IN
CRL A (MD) No.463 of 2008
Date : 21/03/2019

TK/ /SAR-3/21.03.2019/3P/6C