



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

Monday, the Nineteenth day of August Two Thousand Nineteen

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PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.5841 of 2019

IN

CRL A(MD) No.281 of 2019

MURUGAN

... PETITIONER/APPELLANT/
SOLE ACCUSED

Vs

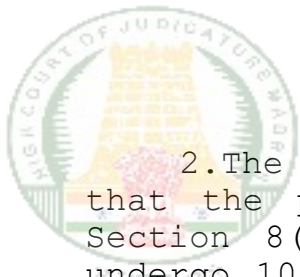
STATE REP BY
THE INSPECTOR OF POLICE,
MAYILADUMPARAI POLICE STATION,
THENI DISTRICT.
CRIME NO.63/2017

... 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/Appellant namely Murugan, S/o. Periyakaruppa Thevar passed by the Learned Principal Special Court for EC and NDPS Act Cases, Madurai in C.C.No.313/2017 dated 10/05/2019 and enlarge petitioner on bail, pending disposal of the Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.M.JEGADEESH PANDIAN, Advocate for the petitioner and of Mr.R.ANANDHARAJ, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner by the Principal Sessions Court for EC and NDPS Act cases, Madurai, in C.C.No.313 of 2017, dated 10.05.2019 and enlarge the petitioner on bail pending disposal of the criminal appeal.



2.The learned counsel appearing for the petitioner submitted that the petitioner was convicted for the alleged offence under Section 8(c) r/w 20(b)(ii)(C) of NDPS Act and sentenced him to undergo 10 years RI and to pay a fine of Rs.1,00,000/-, in default to undergo 6 months SI. It is further submitted that while at the time of occurrence, the respondent has not followed the procedure established under NDPS Act and even at the time of occurrence, the petitioner was not at all present in the scene of occurrence and no clinching material was available with the prosecution to prove that the contraband was recovered from the spot, which is alleged to have been belonged to the petitioner and there is no corroboration between the evidence of the prosecution witnesses and all the witnesses are official witnesses and no steps were taken by the prosecution to prove the allegation through the independent witnesses.

3.The learned counsel appearing for the petitioner also submitted that the petitioner is an innocent person and he was falsely implicated in this case and he is only bread winner of the family and that there are several infirmities in the prosecution case and there are contradictions in material particulars between the evidence of the prosecution witnesses and prays for suspension of sentence and that the petitioner is in jail for more than two years and prays for allowing this application.

4.The learned Additional Public Prosecutor appearing for the respondent/State submitted that the trial court has rightly convicted the petitioner and there are enough materials available on record against the petitioner and there is no infirmity in the prosecution case and prays for dismissal of this petition.

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

6.The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7.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 he shall execute 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 Principal Special Court for EC and NDPS Act cases, Madurai and on further condition that the petitioner shall appear before the said court daily twice I.e, at 10.30 am and 5.00 pm pending appeal.

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sd/-
19/08/2019

/ TRUE COPY /

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

TO

- 1.THE PRINCIPAL SPECIAL COURT FOR EC AND NDPS ACT CASES,
MADURAI.
 - 2.THE PRINCIPAL SESSIONS COURT FOR EC AND NDPS ACT CASES,
MADURAI.
 - 3.THE INSPECTOR OF POLICE,
MAYILADUMPARAI POLICE STATION,
THENI DISTRICT.
 - 4.THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
 - 5.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to Mr.M.JEGADEESH PANDIAN Advocate SR.No.13660

ORDER
IN
CRL MP(MD) No.5841 of 2019
IN
CRL A(MD) No.281 of 2019
Date :19/08/2019

TK/VR/SAR.1/20.08.2019/3P/7C