



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

Friday, the Thirtieth day of August Two Thousand Nineteen

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PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.7128 of 2019

IN

CRL A(MD) No.358 of 2019

MANIKANDAN

... PETITIONER/APPELLANT/
ACCUSED NO.1

Vs

THE STATE, REP BY THE INSPECTOR OF POLICE,
JEYAMANGALAM POLICE STATION, MADURAI DISTRICT
(CRIME NO.75 OF 2011)

... RESPONDENT/RESPONDENT/
COMPLAINANT

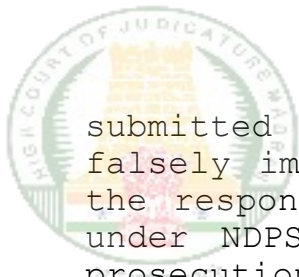
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner/appellant/accused No.1 namely Manikandan, S/o.Patchaiappan passed by the learned Principal Special Court for EC and NDPS Act Cases, Madurai in C.C.No.57 of 2012 dated 30.07.2019 and enlarge me on bail, Pending disposal of the above CRL A(MD) No.358 of 2019.

Order : This petition coming on for orders 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.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/A1 passed by the Principal Special Court for EC and NDPS Act Cases, Madurai, in C.C.No.57 of 2012, dated 30.07.2019 and enlarge the petitioner on bail till the disposal of the criminal appeal.

2.The learned counsel appearing for the petitioner submitted that the trial court convicted the petitioner for the offence under Section 8(c) r/w 20(b)(ii)(C) of NDPS Act and sentenced him to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.1,00,000/-, in default to undergo 1 years Rigorous Imprisonment.

3.The learned counsel appearing for the petitioner further



submitted that the petitioner is an innocent person and he was falsely implicated in this case and while at the time occurrence, the respondent has not at all followed the procedures contemplated under NDPS Act and no clinching material was available with the prosecution to prove the manner, in which the seizure has been effected and there is no corroboration between the evidence of prosecution witnesses and all the witnesses are official witnesses, no steps were taken by the prosecution to prove the allegations through the independent witnesses and though the contraband was seized on 05.04.2011, it was not produced before the concerned court within time as per law 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.

4.It is submitted by the learned Additional Public Prosecutor 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 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.

sd/-

30/08/2019

/ 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 INSPECTOR OF POLICE
JEYAMANGALAM POLICE STATION, MADURAI
DISTRICT

3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1. C.C. to M/S. M. JEGADEESH PANDIAN Advocate SR.No.14524

ORDER

IN

CRL MP(MD) No.7128 of 2019

IN

CRL A(MD) No.358 of 2019

Date :30/08/2019

TR/PN/SAR-I (03.09.2019) 3P 6C