



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

Tuesday, the Twenty Sixth day of May Two Thousand Twenty

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.3048 of 2020

IN

CRL A(MD) No.35 of 2020

DURAIPANDI
(NOW CONFINED AT
CENTRAL PRISON AT MADURAI)

... PETITIONER/ APPELLANT/
ACCUSED NO.4

Vs

STATE REP. BY
THE INSPECTOR OF POLICE
OTHAKADAI POLICE STATION,
MADURAI DISTRICT.
(CRIME NO.97 OF 2018)

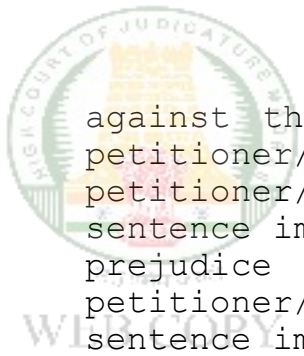
... RESPONDENT/RESPONDENT/COMPLAINANT

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 in C.C.No.247 of 2018 dated on 31.12.2019 on the file of the Principal Special Court for EC and NDPS Act Cases, Madurai and thus render justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.V.CHANDRAPANDI, Advocate for the petitioner and of MR.V.NEELAKANDAN, 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 in C.C.No.247 of 2018, dated 31.12.2019 by the Principal Special Court for EC and NDPS Act Cases, Madurai and enlarge the petitioner on bail till the disposal of the criminal appeal.

2.The learned counsel appearing for the petitioner/A4 submitted that the trial court convicted the petitioner/A4 along with three accused persons namely A1 to A3 for the offence under section 8(C) r/w 20(b)(ii)(C) of NDPS Act r/w 34 IPC and sentenced to undergo rigorous imprisonment for 10 years each and to pay a fine of Rs.1,00,000/- each, in default to undergo simple imprisonment for 6 months each. The learned counsel for the respondent/A5 submitted that the trial court acquitted A5 to A10 from the charge(s) levelled



against them. Aggrieved by the judgment of the trial court, the petitioner/A4 is before this court. It is further submitted that the petitioner/A4 has fair chance of success in this appeal and if the sentence imposed by the trial court is not suspended, it would cause prejudice and irreparable hardship to the petitioner/A4 and the petitioner/A4 is in jail since 31.12.2019 and prays that the sentence imposed by the trial court may be suspended.

3. On the other hand, the learned Additional Public Prosecutor appearing for the respondent/State argued that the total weight of the contraband is 150 kgs, which is commercial quantity and hence, section 37 of NDPS Act would squarely apply to this case and the trial court after considering the entire materials available on record, convicted A1 to A4 and acquitted the other accused persons namely A5 to A10 and no previous case is pending against this petitioner/A4 and this is the second application and the first application was dismissed by this court on 23.03.2020 and prays for dismissal of this petition.

4. However, considering the facts and circumstances of the case and also considering the fact that the petitioner/A4 is in jail since 31.12.2019 and there is no previous antecedent against the petitioner/A4, this court is inclined to allow this petition with certain conditions.

5. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner/A4 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/A4 shall appear before the said court daily twice at 10.30 am and 05.00 pm pending criminal appeal.

sd/-
26/05/2020

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

TO

1 THE JUDGE,
PRINCIPAL SPECIAL COURT FOR
AND NDPS ACT CASES, MADURAI.

<https://hcservices.ecourts.gov.in/hcservices/>



2 THE INSPECTOR OF POLICE,
OTHAKADAI POLICE STATION,
MADURAI DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

ORDER
IN
CRL MP (MD) No.3048 of 2020
IN
CRL A (MD) No.35 of 2020
Date :26/05/2020

er
JM/PN/SAR 2/26.05.2020/3P/5C