



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

Friday, the Seventh day of August Two Thousand Twenty

PRESENT

The Hon'ble Mrs. Justice R. THARANI

CRL MP (MD) No.3825 of 2020

IN

CRL A (MD) No.65 of 2020

GOVINDAN

... PETITIONER/PETITIONER/APPELLANT

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE,
OTHAKADAI POLICE STATION,
MADURAI DISTRICT.
CR 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 on the Petitioner in CC.No.247 of 2018 dated 31.12.2019 passed by the learned Special Court for NDPS Act, Madurai and enlarge the Petitioner on bail, pending disposal of the above Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.G.KARUPPASAMY PANDIYAN, Advocate for the petitioner and of Mr.K.DINESH BABU, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence imposed on the petitioner in C.C.No.247 of 2018, dated 31.12.2019 passed by the Special Court for NDPS Act, Madurai and enlarge the petitioner on bail, pending disposal of the Criminal Appeal.

2. Heard both sides.

3. The case against the petitioner is that on 17.02.2018, at 15.00 hours, the petitioner and 9 others were found in possession of 150 Kg of Ganja. Hence, a case, under Section 8 (c) r/w. Sections 20 (b)(ii) (C) and 29 (1) of NDPS Act, was registered against them. After trial, A1 to A4 were convicted and sentenced to undergo 10 years rigorous imprisonment each and to pay a fine of Rs.1,00,000/- each in default to undergo simple imprisonment for further period of



six months each. The petitioner herein is A1 in the case. The petitioner filed a Criminal Appeal against the order of conviction. Along with appeal the petitioner filed this petition, for suspension of sentence till the disposal of the appeal.

4. On the side of the petitioner, it is stated that the co-accused were acquitted in the case and the sentence against A4 was already suspended and the present petitioner is in judicial custody for the past 7 months and the quantity of Ganja stated in the charge sheet is 152 Kg, wherein, in the seizure mahazar, it is stated only 136 Kg of Ganja and the accused were not forwarded to any Magistrate or any Gazetted Government officer and the respondents themselves conducted search. The consent letter was prepared by the respondent and the accused compelled to put signature in the consent letter. All the four witnesses examined, were only police officials. No independent witness was examined. The Deputy Superintendent of Police who was alleged to have been present at the time of seizure, was not examined and there are much more arguable points on the side of the petitioner and prayed the sentence to be suspended till the disposal of the appeal.

5. On the side of the prosecution, it is stated that the total contraband is 150 Kg, which is a commercial quantity. All the procedures, specified under Sections 42, 50 and 57 of NDPS Act, were scrupulously followed during the seizure. 4 witnesses [P.W.1 to P.W.4] were examined, 10 exhibits [Ex.P1 to Ex.P10] were marked and 138 material objects [M.O.1 to M.O.138] were marked on the side of the prosecution. The prosecution has proved the case beyond all reasonable doubts. Already the suspension of sentence petition filed on behalf of A2 and A3 were dismissed by this Court last week and the earlier petition filed by this petitioner in CrI.M.P.(MD) No.1117 of 2020 was also dismissed on 09.06.2020 and prayed for the dismissal of the petition.

6. It is seen that the earlier petition filed by the petitioner as well as by A2 and A3 were already dismissed by this Court. The offence is grave in nature. In view of the above circumstances, this Court is not inclined to suspend the sentence at present. Hence, this Criminal Miscellaneous Petition is dismissed.

sd/-
07/08/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE PRINCIPAL SPECIAL JUDGE FOR EC & NDPS ACT CASES,
MADURAI.
2. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
3. THE INSPECTOR OF POLICE,
OTHAKADAI POLICE STATION,
MADURAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP (MD) No.3825 of 2020
IN
CRL A (MD) No.65 of 2020
Date :07/08/2020

LS

TE/PN/SAR-II : 14/08/2020 : 3P/5C