



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

Wednesday, the Ninth day of December Two Thousand and Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.6533 of 2020

IN

CRL A(MD) No.65 of 2020

GOVINDAN

... PETITIONER/APPELLANT

Vs

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

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence imposed on the Petitioner in C.C.No. 247/2018 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.

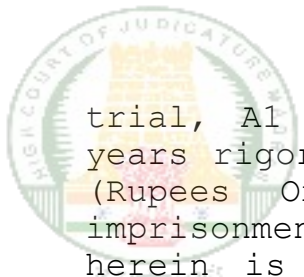
Prayer in CRL A(MD) No.65 of 2020:

To call for the records and set aside the order of conviction and sentence passed by the Principal Special Court for EC & NDPS Act Cases, Madurai in C.C.No.247 of 2018 dated 31.12.2019 and allow this appeal and acquit the appellant/accused from the charge leveled against the petitioner.

ORDER : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.G.KARUPPASAMY PANDIAN, Advocate for the petitioner and of MRS.S.BHARTHI, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Additional District Judge, Special Court for NDPS Act, Madurai in C.C.No.247 of 2018 dated 31.12.2020, till the disposal of the appeal.

2.The case against the petitioner is that on 17.02.2018, at 15.00 hours, the petitioner and nine others were found in possession of 150 kg of Ganja. Hence, a case was registered against them under Sections 20(b)(ii)(c) and 29(1) of NDPS Act. After



trial, A1 to A4 were convicted and were sentenced to undergo 10 years rigorous imprisonment each and to pay a fine of Rs.1,00,000/- (Rupees One Lakh only) each in default to undergo simple imprisonment for a further period of six months each. The petitioner herein is A1 in the case. Against the order of conviction and sentence imposed by the trial Court, the petitioner filed the present Criminal Appeal. Along with appeal, the petitioner filed this petition for suspension of sentence till the disposal of the appeal.

3.On the side of the petitioner, it is stated that the petitioner is having kidney problem and is in need of urgent medical attendance. It is further stated that the trial Court has acquitted six accused, out of total 10 accused. Procedures under Section 68 of NDPS Act was violated. A4 was already granted suspension of sentence. The petitioner is 61 years old and is in custody for the past 10 months. The petitioner has attached herewith his medical reports. There are much more valid points to be argued in the main appeal and prayed the sentence to be suspended till the disposal of the appeal.

4.On the side of the prosecution, it is stated that the prosecution has examined 4 witnesses and marked 10 documents and marked 138 material objects. The case was proved by the prosecution beyond all reasonable doubts. All the procedures are properly followed. However, the learned Additional Public Prosecutor appearing for the respondent would fairly submit that the petitioner is undergoing treatment in Government Hospital for his ailments.

5.It is seen that the present petition is the fourth petition filed by the petitioner. The petitioner is aged about 61 years. A perusal of medical documents reveals that the petitioner is having some ailments. Hence, in the extraordinary circumstances, on humanitarian ground, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

6.Accordingly, the substantive sentence of imprisonment alone is suspended till the disposal of the appeal and the petitioner is ordered to be released on bail on the following conditions:

(i)the petitioner is directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judge, the Principal Special Court for EC & NDPS Act cases, Madurai;

(ii)the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;



(iii) the petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

sd/-
09/12/2020

WEB COPY

/ TRUE COPY /

/ /2020

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

Note : In view of the present lock down owing to COVID - 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

TO

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

ORDER
IN
CRL MP(MD) No.6533 of 2020
IN
CRL A(MD) No.65 of 2020
Date : 09/12/2020

MRN
JM/AKM/SAR III/10.12.2020/3P/6C