



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

Friday, the Seventeenth day of September Two Thousand and Twenty One
PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.4460 of 2021

IN

CRL.A(MD)No.212 of 2020

GANESAN

... PETITIONER/APPELLANT
/SOLE ACCUSED

Vs

THE DEPUTY SUPERINTENDENT OF POLICE,
NIB CID,
DINDGUL,
IN CRIME NO.42/2019.

... RESPONDENT/RESPONDENT
/COMPLAINANT

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/Appellant/Sole Accused by the Learned II Additional Special Court for NDPS Act Cases, Madurai in C.C.NO. 365 of 2019 dated 10/06/2020 and enlarge him on bail pending disposal of the Criminal Appeal.

PRAYER IN CRL.A(MD)No.212 OF 2020

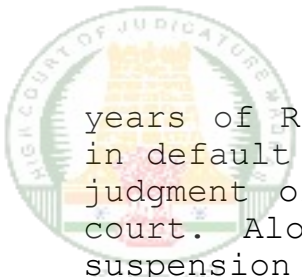
To call for the records in C.C.No. 365 of 2019 dated 16.06.2020 on the file of the Learned II-Additional Special Court for NDPS Act cases, Madurai and set aside the same.

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.M.JEGADEESH PANDIAN, Advocate for the petitioner and of MR.R.M.S.SETHURAMAN, Counsel for State (Criminal Side) 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/Sole Accused by the II Additional Special Court for NDPS Act Cases, Madurai, in CC No.365 of 2019, dated 10.06.2020 pending disposal of the main criminal appeal.

2.According to the prosecution, the petitioner was in possession of 21 kgs of ganja.

3.The trial court, after proper appreciation of the entire materials available on record, both oral and documentary found the petitioner/accused guilty for the offence under section 8(c) r/w 20 (b)(11)(c) of NDPS Act, convicted and sentenced him to undergo 10



years of Rigorous Imprisonment and to pay a fine of Rs.1,00,000/-, in default to undergo 1 year Rigorous Imprisonment. Aggrieved by the judgment of the trial court, the appellant/accused is before this court. Along with appeal, this petition has been filed seeking suspension of sentence.

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4.The learned counsel appearing for the petitioner submitted that the manner in which the case registered against the petitioner is false and that there are enormous delay in producing the seized contraband before the concerned court and the procedures laid down under sections 42(2) and 57 of NDPS Act were not at all followed by the prosecution and that the petitioner is an innocent person and he was falsely implicated in this case and he is the only bread winner of the family and that there are several infirmities in the prosecution case and there are contradictions in material particulars in the evidence of the prosecution witnesses and prays for suspension of sentence.

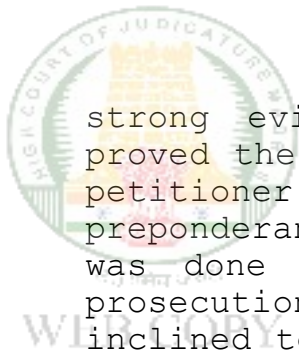
5.It is submitted by the learned Standing Counsel appearing for the respondent/State that the trial court has rightly convicted the petitioner and there are enough materials available on record against the petitioner and there is no infirmity in the prosecution case and prays for dismissal of this petition.

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

7.In this case, the Police Official, who received the secret information was examined as PW2. PW2 deposed that on 30.03.2019 at 8.30 pm, when he was at the police station, received an information from his informant and in turn informed the same to the Inspector of Police and reduced the said information at 8.45 pm, in General Diary and he along with PW1 and PC Lawrance rushed to the place of occurrence at 9.30 am and obtained permission for further action. Thereafter, samples were drawn from the contraband and the petitioner was arrested and taken to the police station along with the seized materials. Thereafter, FIR was registered and forwarded detailed report under section 57 of NDPS Act to his superior officer. The information obtained was marked as Ex.P6 and FIR was marked as Ex.P7. Hence, this court is of the considered view that all the procedures contemplated under sections 42 and 57 of NDPS Act were duly complied with and the same was sustained with oral and documentary evidence. Hence, in this case, the provisions under sections 42 and 57 of NDPS Act were correctly complied with. Hence, the argument put forth on the side of the petitioner/accused stating that the provisions under sections 42 and 57 of the NDPS Act are not complied with is not at all acceptable.

8.Further, it is seen that the prosecution witnesses PW1 to PW3 were examined and the above witnesses, the prosecution laid

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strong evidence against the petitioner and the prosecution has proved the presumption beyond reasonable doubt. On other hand, the petitioner has failed to rebut the prosecution evidence by way of preponderance of probabilities. Though intensive cross examination was done by the petitioner, nothing was elicited to doubt the prosecution case. Under these circumstances, this court is not inclined to suspend the sentence imposed against the petitioner and release him on bail.

9. In the result, this Criminal Miscellaneous Petition is dismissed.

sd/-
17/09/2021

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

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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 JUDGE,
II ADDITIONAL SPECIAL COURT FOR NDPS ACT CASES,
MADURAI.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
NIB CID,
DINDGUL.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP(MD) No.4460 of 2021 IN
CRL.A(MD)No.212 of 2020
Date :17/09/2021

PKP/JM/SAR-4/22.09.2021/3P/5C