



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

Tuesday, the Seventh day of September Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.4764 of 2021

IN

CRL A(MD) No.293 of 2021

TAMILSELVAN

... PETITIONER/APPELLANT

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
NIB CID UNIT, THENI,
THENI DISTRICT.
(CR.NO.85 OF 2019)

... 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 by the Judgment dated 29/06/2021 in C.C.No.428 of 2019 passed by the Learned I Additional Special Judge for NDPS Act Cases, Madurai, pending disposal of this appeal and release the petitioner on bail.

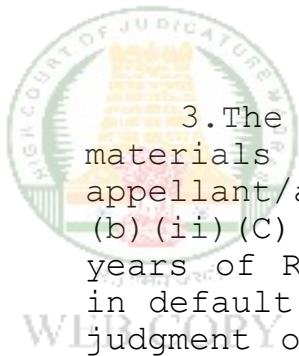
PRAYER IN CRL A(MD) No.293 of 2021:

To allow this appeal and acquit the appellant from all the charges by setting aside the impugned Judgment passed by the learned I Additional Special Judge for NDPS Act Cases, Madurai., in C.C.No.428 of 2019 dated 29.06.2021.

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.J.SELVAM, Advocate for the petitioner and of Mr.RMS.SETHURAMAN, Counsel for State(crl.side) on behalf of the Respondent, the Court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the I Additional Special Judge for NDPS Act cases, Madurai, dated 29.06.2021 in C.C No.428 of 2019 pending disposal of the appeal and release the petitioner on bail.

2.The case of the prosecution is that on 05.06.2019 at 17.30 hours near Theni-Cumbum Road, Upparpatti Vilakku, the accused was found in possession of 22 kilogram of ganja in a white colour gunny bag.



3.The trial court, after proper appreciation of the entire materials available on record, both oral and documentary found the appellant/accused guilty for the offence under section 8(c) r/w 20 (b)(ii)(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 6 months Simple Imprisonment. Aggrieved by the judgment of the trial court, the appellant/accused is before this court. Pending appeal, this petition has been filed seeking suspension of sentence and release the petitioner on bail.

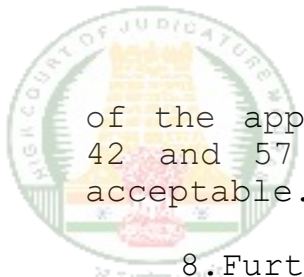
4.The learned counsel appearing for the petitioner submitted that the manner in which the case registered against the petitioner is false and that there are enormous delay in producing the seized contraband before the concerned court and the procedures laid down under sections 42(2) and 57 of NDPS Act 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 that the petitioner is in jail since 05.06.2019 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 PW1. PW1 deposed that on 05.06.2019 at 4.00 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 4.10 pm, in General Diary and he along with PW2 Head Constable and PW3 Inspector of Police rushed to the place of occurrence at 4.20 pm 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 PW1 forwarded detailed report under section 57 of NDPS Act to his superior officer. The information obtained by the PW2 was marked as Ex.P1 and FIR was marked as Ex.P6. 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 section 42 and 57 of NDPS Act were

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of the appellant/accused stating that the provisions under section 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 PW4 were corroborated and the above witnesses, the prosecution laid 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/-

07/09/2021

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

TO

1 THE I ADDITIONAL SPECIAL JUDGE FOR NDPS ACT CASES, MADURAI.

2 THE INSPECTOR OF POLICE,
NIB CID UNIT, THENI, THENI DISTRICT.

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

4 THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.

ORDER

IN

CRL MP(MD) No.4764 of 2021

IN

CRL A(MD) No.293 of 2021

Date :07/09/2021

SS/VR/SAR-I/14.09.2021 : 3P/5C