



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

Thursday, the Seventeenth day of February Two Thousand and Twenty
Two

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PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

Crl.M.P(MD)No.6489 of 2021

in

Crl.A(MD)No.366 of 2021

ABHINAND

... APPELLANT / SOLE ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
KODAIKANAL POLICE STATION,
DINDIGUL
(CRIME NO.350 OF 2020)

... 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 of Imprisonment imposed by the Learned II Additional Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai by its judgment dated 09.04.2021 in CC.No.117 of 2020 and enlarge the Petitioner/Appellant on bail, pending disposal of the above said Criminal Appeal.

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.WILLIAM CHRISTOPHER, Advocate for the petitioner and of MR.ASHA, Additional Public Prosecutor on behalf of the Respondent, While admitting the Crl.A., the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the Sentence of Imprisonment imposed against the petitioner by the learned II Additional Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai by its judgment dated 09.04.2021 in C.C.No.117 of 2020 convicted the petitioner under Sections 8 (c) read with 22 (c) of Narcotic Drugs and Psychotropic Substances Act and Sentenced the petitioner to undergo 10 years of Rigorous Imprisonment and to pay a fine of Rs.1,00,000/- (Rupees One Lakh only) in default to under Simple Imprisonment for six months. Against the judgment of the trial Court, the petitioner have preferred an appeal before this Court and seeks to suspend the sentence.



2. The learned counsel appearing for the petitioner submitted that the learned trial Judge ought to have seen that there is no independent witnesses to prove the search and seizure and the absence of P.W.3 to name the private persons present in scene of occurrence and the failure to prosecute them under Section 186 IPC further strengthens the defense version. He also submitted that the learned trial Judge ought to have seen that though Section 57 of NDPS Act is directory in nature, failure to comply with the same in the instance case has created a serious doubt in the prosecution story and caused a serious prejudice to the accused and prayed the same.

3. The learned Additional Public Prosecutor submitted that the respondent followed all the procedures as contemplated under the Act and proved the case beyond reasonable doubt. Therefore, there is no ground to consider the petition for suspension of sentence while pending the appeal. Considering the facts and circumstances of the case and also considering the nature of the offence, this Court is not inclined to suspend the sentence and hence this Criminal Miscellaneous Petition is dismissed.

sd/-

17/02/2022

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/ /2022

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

TO

1 THE II ADDITIONAL SPECIAL COURT FOR
NARCOTIC DRUGS AND PSYCHOTROPIC
SUBSTANCES ACT CASES, MADURAI.

2 THE INSPECTOR OF POLICE
KODAIKANAL POLICE STATION, DINDIGUL

3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

ORDER

IN

Crl.M.P(MD)No.6489 of 2021
in

Crl.A(MD)No.366 of 2021

Date :17/02/2022

mga

MK/PN/SAR.III/25.02.2022/2P/5C

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