



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.No.5464 of 2022

in Crl.A.No.443 of 2022

1.Yasin

S/o.Shek Alavudin

2.Mohamed Hussen

S/o.Abdhul Munaf

...Petitioners /
A-1 & A-2

versus

State by

The Inspector of Police,
H1 Washermenpet Police Station,
Chennai.

(Crime No.1143 of 2019)

...Respondent /
Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C., praying to suspend the sentence imposed on the petitioners passed by the learned Special Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai in C.C.No.141 of 2020 dated 06.04.2022 and enlarge the petitioners on bail pending disposal of the above Criminal Appeal.

For Petitioners : Mr.B.Kumarasamy

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

ORDER

This Criminal Miscellaneous Petition has been preferred by the petitioners/accused, seeking to suspend the sentence imposed upon them, by judgment and order dated 06.04.2022 passed in C.C.No.141 of 2020 on the file of the learned Special Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai and to enlarge them on bail, pending disposal of the appeal.



2. The petitioners, who are arrayed as A-1 and A-2 in C.C.No.141 of 2020 on the file of the learned Special Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai. They were found guilty for the offence punishable under Section 8(c) r/w 20(b)(ii)(B) of NDPS Act and have been convicted and sentenced as under:

<i>Offence</i>	<i>Sentence</i>
8(c) r/w 20(b)(ii)(B) of NDPS Act	Rigorous Imprisonment for 1 year along with fine of Rs.15,000/- each, in default, to undergo Simple Imprisonment for 3 months each

3. Challenging the above conviction and sentence, the petitioners/accused, have filed CrI.A.No.443 of 2022 along with the instant Miscellaneous Petition, seeking suspension of sentence and bail.

4. Heard Mr.B.Kumarasamy, learned counsel appearing for the petitioners/accused and Mr.Leonard Arul Joseph Selvam, learned Government Advocate (CrI. Side) appearing for the respondent/State.

5. The case of the prosecution is that on 21.12.2019, the petitioners along with other accused were found in illegal possession of 1.500kgs of ganja. Therefore, the respondent police registered a case against the petitioners/accused for the offence punishable under Section 8(c) r/w 20(b)(ii)(B) of NDPS Act.

6. According to the learned counsel for the petitioners/accused, there are arguable points available in the criminal appeal and the petitioners/accused have got a fair chance of succeeding in the appeal case and hence, the substantive sentence imposed against the petitioners/accused may be suspended before the trial Court.

7. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent/State raised serious objection for allowing this petition. Further, he would contend that the evidences recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. According to him, interference of this Court is not necessary in the findings arrived at by the trial Court.

8. Submissions made by the learned counsel appearing on either side are considered. The evidence given by P.W.1 in respect to the alleged occurrence needs a detailed appraisal. Further, the petitioners are in the judicial custody from 06.04.2022 and also as the appeal is not likely to be taken up in the near future, this Court is inclined to suspend the sentence for the petitioners/accused.



9. Accordingly, sentence of imprisonment alone is suspended and bail is granted to the petitioners on the following conditions:

(a) The petitioners/accused are ordered to be released on bail, on each of them executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Special Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai;

(b) The petitioners/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities; and

(c) The petitioners shall appear before the trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the appeal and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of their absence, as directed by the trial Court.

10. With the above directions, this Criminal Miscellaneous Petition is ordered.

-sd/-

25/04/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL JUDGE
II ADDITIONAL SPECIAL COURT FOR EXCLUSIVE
TRIAL OF CASES UNDER NDPS ACT, CHENNAI.

2 THE INSPECTOR OF POLICE
H1 WASHERMENPET POLICE STATION,
CHENNAI.



3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

WEB COPY
4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

+1C.C. to MR.B.KUMARASAMY Advocate on payment of necessary
charges SR.No.6100

Order
in
CRL MP.5464/2022
in
CRL.A.443/2022
Date :25/04/2022

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

CSK 25/04/2022