



Crl.M.P.No.18864 of 2022 in Crl.A.No.1247 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.M.P.No.18864 of 2022

in

Crl.A.No.1247 of 2022

1. Elumalai

2. Sellan

... Petitioners

Vs.

State Rep. by

The Inspector of Police,

NIB-CID, Villupuram.

Crime No.30/2019

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C. to suspend the sentence awarded to the petitioners in judgment dtd 23.09.2022 passed in Special Case No.1 of 2020 by the Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases, Villupuram during the pendency of this Appeal and enlarge the petitioners on bail.

For Petitioners : Mr.C.Munusamy

For Respondent : Mr.C.E.Pratap,
Gov. Advocate (Crl.Side)



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ORDER

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The petitioners, who are accused in Special Case No.1 of 2020 on the file of the the Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases, Villupuram, seeks suspension of their sentence of imprisonment.

2. The Trial Court, by judgment dated 23.09.2022, convicted the petitioners/accused for the offence punishable under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act and sentenced them as under:

Conviction under Section	Sentence
8(c) r/w 20(b)(ii)(B) of NDPS Act	Rigorous imprisonment for three years each and to pay a fine of Rs.10,000/- each, in default, to undergo further period of Rigorous imprisonment for six months each.

3. Challenging the conviction and sentence slapped by the Trial Court, the petitioners are before this Court.



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4. The learned counsel for the petitioners submitted that there are arguable points in this appeal. He further submitted that the petitioners are in custody and hence, prayed for suspension of sentence.

5. Heard the learned Government Advocate(Crl. side) appearing for the respondent and perused the impugned judgment and the materials on record.

6. The allegation against the petitioners is that they were found in possession of 22 Kgs of Ganja. According to the petitioners, there is a violation of procedure contemplated under Section 50 of NDPS Act and they are nothing to do with the alleged occurrence.

7. Taking into consideration of the above submission of the learned counsels appearing on both sides, this Court finds that the petitioners have substantial grounds in this Criminal Appeal, which require detailed appraisal. Therefore, this Court is of the view that the petitioners are entitled to the relief of suspension of sentence.

8. Accordingly, it is ordered as follows.



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(i) The substantive sentence of imprisonment alone is suspended and the petitioners are directed to be enlarged on bail on condition that the petitioners *shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties each for a like sum to the satisfaction of the learned Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases, Villupuram.*

(ii) The petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iii) The petitioners shall appear before the Trial Court on the first working day of every month until the disposal of the Criminal Appeal.

14.12.2022
(2/2)

Note: Issue order copy on 14.12.2022

mst

To

1. The Special Court for Trial of NDPS Act Cases, Villupuram.

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2. The Central Prison, Cuddalore.
3. The Inspector of Police,
NIB-CID, Villupuram.
4. The Public Prosecutor,
High Court of Madras, Chennai.



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V.SIVAGNANAM, J.,

mst

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