



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Thursday, the Eleventh day of August Two Thousand and Twenty Two

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.3142 of 2022

IN

CRL A(MD) No.156 of 2022

M.VIGNESH

... PETITIONER / APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
NIB CID,
MADURAI
(CRIME NO.12 OF 2018)

... 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 in C.C. No. 604 of 201 dated. 29.10.2021 on the file of the learned 1st Additional Special Court NDPS Act Case, Madurai and enlarge the petitioner on bail till the disposal of the Criminal Appeal.

Prayer in CRL A(MD) No.156 of 2022:

To call for the records and set aside the conviction and sentence passed in C.C.No.406 of 2018 dated 29.10.2021 on the file of the Learned 1st Additional Special Court for NDPS Act Cases, Madurai so far as Appellant Concerned.

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.C.JEGANATHAN, Advocate for the petitioner and of MR.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

RESERVED ON

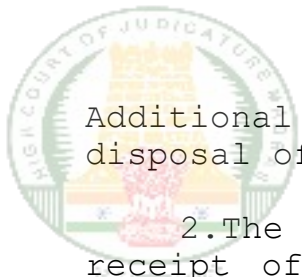
02.08.2022

PRONOUNCED ON

11 .08.2022

This petition has been filed to suspend the sentence passed in C.C.No.406 of 2018, dated 29.10.2021, on the file of the learned I

<https://www.mhe.tn.gov.in/judis>



Additional Special Court for NDPS Act Cases, Madurai,
disposal of this Criminal Appeal.

2.The case of the prosecution is that the respondent police, on receipt of secret information, on 26.01.2018 at about 05.00 hrs, they went to Usilampatty to Theni National Highways between Chettiapaty Village and Kanavai at 06.30 hrs, a white colour Innova Car bearing Registration No.TN-09-BS-2217, which came from East to West, was intercepted, but the driver of the said vehicle did not stop the vehicle and hence, the police party chased the said vehicle and cornered at Kanavai, that the person who travelled in the said car ran away from the occurrence place and that the police party had enquired the driver of the vehicle and they have recovered 204kgs of Ganja from the said vehicle. Hence, FIR came to be registered against the petitioner along with A1 in Crime No.12 of 2018 on the file of the respondent police and the respondent police, after completing investigation, has laid the final report and the case was taken on file in C.C.No.406 of 2018 on the file of the learned I Additional Special Court for NDPS Act Cases, Madurai.

3.During the trial, the prosecution has examined 7 witnesses as P.W.1 to P.W.7 and exhibited 14 documents as Ex.P1 to Ex.P14 and 30 Material Objects as M.O.1 to M.O.30. The defence has adduced neither oral nor documentary evidence.

4.The learned Special Judge, upon considering the evidence and on hearing the arguments of both sides, has passed the impugned Judgment, dated 29.10.2021 and convicted the petitioner/A2 for the offence under Sections 8(c) r/w 20(b)(ii)(C) of NDPS Act and sentenced him to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.1,00,000/- in default to undergo six months Simple Imprisonment. Aggrieved by the said Judgment of conviction and sentence, the petitioner/A2 has preferred the present appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5.Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

6.The learned counsel for the petitioner would submit that the vehicle along with the contraband was seized on 26.01.2018, that the said vehicle was produced before the RTO and the ownership was transferred on 08.02.2018 and the said factum was admitted by P.W.5 stating that without producing the vehicle, the name transfer is not possible and that therefore, the entire seizure of the vehicle and contraband is not believable and the same would show that the prosecution case is concocted and the petitioner has been falsely implicated. He would further submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the



7.As rightly contended by the learned Additional Public Prosecutor, the above factual aspects cannot be gone into at this stage and the same can be gone into at the hearing of the appeal and that the above said factum alone is not sufficient to grant the order of suspension. He would further submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

8.Considering the above facts and circumstances of the case and also considering the seriousness and gravity of the offence alleged against the petitioner and also the fact that the petitioner has been in incarceration from the date of Judgment i.e., on 29.10.2021, this Court is not inclined to grant suspension of sentence to the petitioner at this point of time.

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

sd/-

11/08/2022

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

TO

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

ORDER

IN

CRL MP(MD) No.3142 of 2022

IN

CRL A(MD) No.156 of 2022

Date :11/08/2022

MK/VR/SAR.II/16.08.2022/3P/5C