



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

Wednesday, the Twenty Seventh day of April Two Thousand and
Twenty Two
PRESENT

WEB COPY

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

CRL MP(MD) No.4026 of 2022
IN
CRL A(MD)No.148 of 2021

GANESAN

... PETITIONER/APPELLATE

Vs

THE STATE REP.BY
THE INTELLIGENCE OFFICER
NARCOTICS CONTROL BUREAU,
MADURAI SUB ZONE,
MADURAI

... 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 learned Principal Special court for EC and NDPS Act cases, Madurai in C.C No. 63 of 2017 vide judgment dated 23.12.2020 and to enlarge the petitioner on bail pending disposal of the above said Criminal Appeal.

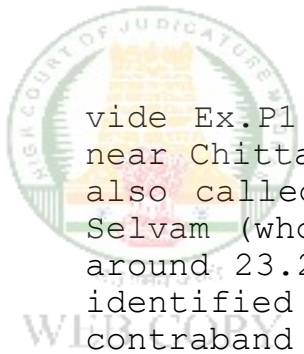
PRAYER IN CRL A(MD)No.148 of 2021:

Pleased to call for the records and set aside the sentence and conviction imposed in C.C.No.63 of 2017 on the file of the learned Principal Special Court for EC & NDPS Act Cases, Madurai vice judgment dated 23.12.2020.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.NIRANJAN.S.KUMAR, Advocate for the petitioner and of M/s.M.AASHA, Government Advocate(crl.side) on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence imposed on the petitioner by the learned Additional District Judge/Presiding Officer, Principal Special Court for EC & NDPS Act Cases, Madurai in C.C.No.63 of 2017, dated 23.12.2020.

2.The case of the prosecution is that on 31.08.2016 at about 17.40 hours, Tr.Syed Sharique Omar (PW1) Intelligence Officer, Narcotics Control Bureau, Madurai received an information that the petitioner is carrying substantial quantity of ganja and the petitioner will be stopping the Car near Chittampatti fly over on Trichy - Madurai National Highway. PW1 recorded the information



vide Ex.P1 and PW1 along with team including PW4, Sepoys proceeded near Chittampatti fly over on Trichy - Madurai National Highway, PW1 also called tow independent witnesses namely Mohamed (PW3) and one Selvam (who died later and prior to the investigation process). By around 23.20 hours, a Car bearing Registration No.TN-07-AS-3335 was identified and search was conducted by PW1 and seized the alleged contraband and on personal search from A1/petitioner, PW1 seized Voter ID card, copy of driving license and other documents. PW1 with team had left the spot by 23.55 hours of 31.08.2016. Then the alleged contraband and the petitioner along with A2 were brought to the office of NCB, Madurai, where the contraband was weighed and found to be 85.9 kgs and the same was seized and the petitioner along with A2 were arrested. The respondent completed investigation and filed the final report against the first accused under Sections 8(c) r/w 20(b)(ii)(c), 27(A), 28 & 29 of NDPS Act and against the second accused under Section 8(c) r/w 20(b)(ii)(c), 28 & 29 of NDPS Act.

3.The prosecution examined PW1 to PW5 as witnesses and marked Exs.P1 to P38 and marked M.O.1 to M.O.108. After trial, the trial Court held that the prosecution has proved the guilt against the both accused under Sections 8(c) r/w 20(b)(ii)(c), 28 and 29 of NDPS Act beyond all reasonable doubt and convicted both the accused. A1/petitioner is sentenced to undergo rigorous imprisonment for a period of 10 years (3 counts) and to pay a fine of Rs.1,00,000/- each (3 counts), in default to undergo rigorous imprisonment for a period of one year each. At the same time, the guilt against first accused under Section 27(a) of NDPS Act is not proved beyond any reasonable doubt and the A1/petitioner is acquitted from the above charge.

4.Against the conviction and sentence, the petitioner has filed an appeal before this Court in Crl.A(MD)No.148 of 2021. Along with this appeal, the petitioner has filed the present application for suspension of sentence pending disposal of the said appeal.

5.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) appearing for the respondent.

6.Since there is a material to convict the petitioner and the petitioner failed to comply with the twin condition contemplated under Section 37 of NDPS Act, this Court is not inclined to grant of suspension of sentence to the petitioner. Hence, this petition is dismissed.

sd/-
27/04/2022

/ TRUE COPY /

23/05/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

TO

- 1 THE ADDITIONAL DISTRICT JUDGE / PRESIDING OFFICER,
PRINCIPAL SPECIAL COURT FOR EC & NDPS ACT CASES,
MADURAI.
- 2 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 3 THE INTELLIGENCE OFFICER
NARCOTICS CONTROL BUREAU,
MADURAI SUB ZONE,
MADURAI
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP (MD) No.4026 of 2022
IN
CRL A (MD) No.148 of 2021
Date : 27/04/2022

vsd
PKP/JM/SAR-II/20.05.2022/3P/5C