



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

Thursday, the Fifteenth day of September Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.7501 of 2022
IN
CRL A(MD) No.512 of 2021

RAGU @ RAGUNESH

... PETITIONER/APPELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
Q-BRANCH CID, TRICHY.
CR.NO.2/2017

... 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 in the order of conviction for the petiitoner/appellant U/s.8(C) r/w20(b)(ii)(B) NDPS Act and under section 294(b), 353 and 506(ii) IPC in C.C.No.66/2017 dt 26.10.2021 on the file of the Additional District and Sessions Judge, Special Court for EC-NDPS Act, Pudukottai pending disposal of the criminal appeal.

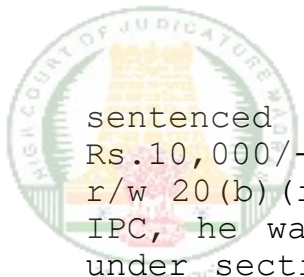
Prayer in CRL A(MD)No.512 of 2021 :

To call for records relating to the order of conviction in C.C.No.66 of 2017 passed by Learned Additional District and Session Judge/Special Court for EC - NDPS Act, Pudukottai dated 26.10.2021 and allow the appeal and may acquit the appeallant.

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.NARAYANAKUMAR K P, Advocate for the petitioner and of MR.S.RAVI, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the conviction and sentence imposed against the petitioner in S.C.No.66 of 2017, dated 26/10/2021 by the Additional District and Sessions Judge, Special Court for EC-NDPS Act, Pudukottai and enlarge the petitioner on bail pending disposal of the criminal appeal.

2.The petitioner was facing the charges for the offences under sections 8(c) r/w 20(b), (ii) (B) NPDS Act, sections 204(b), 353 and 506(ii) IPC. The trial court found the petitioner guilty and



sentenced him to undergo 4 years R/I and imposed a fine of Rs.10,000/- with default clause for the offence under section 8(c) r/w 20(b)(ii)(B) NPDS Act and for the offence under section 294(b) IPC, he was sentenced to under two months RI and for the offence under section 353 IPC, he was directed to undergo one year R/I and for the offence under section 506(ii) IPC, he was sentenced to undergo three years RI. Challenging the above said sentence, appeal has been preferred before this court. Pending appeal, this miscellaneous petition has been filed by the petitioner.

3. Heard both sides.

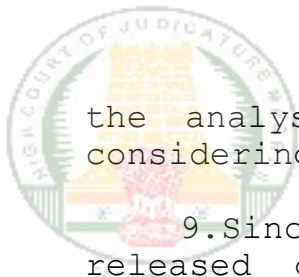
4. The learned counsel appearing for the petitioner would submit that 'Q' Branch police has no right to register the FIR and investigate the matter and the event spoken by the prosecution is also highly improbable in nature; The contraband, which was alleged to have been seized, on 27/05/2017 has been remanded before the concerned court only, on 12/06/2017 and the analysis report has been received only after 17 months; So according to the learned counsel appearing for the petitioner, sections 53 and 57 of the NDPS Act have not been properly complied; During the course of analysis by the Chemical Analyst, the seizure of the contraband was found to be not intact. This according to him, creates doubt of the prosecution case.

5. Per contra, the learned Additional Public Prosecutor would submit that only on the secret information 'Q' Branch Police team was on surveillance; after granting bail, the petitioner went absconding and after two years only, he was secured and in the meantime, he went to Srilanka in an illegal ferry and committed offence there and again, travelled to India through illegal ferry.

6. On hearing this, the learned counsel appearing for the petitioner would submit that absolutely, it is a wrong statement and even though, the petitioner is a Srilankan by birth, he came as a refugee to India some twenty years ago and obtained aadhar card and permanently settled; So the allegation made by the respondent is not at all true.

7. But the learned Additional Public Prosecutor would submit that the documents showing the involvement of this petitioner in the crime of smuggling. However, the learned counsel appearing for the petitioner has disputed the identity of the petitioner.

8. Now whatever it may be, the trial court has found that this petitioner is also involved in the above said offence and from him, the above said contraband has been received on the spot itself. When there is a clear averment, then naturally for suspending sentence section 37 of NDPS Act must also be complied. Here except stating that there is a violation of sections 53 and 57 of the NDPS Act, the



the analysis report also creates doubt, no other group has been considered.

9. Since the petitioner is a Srilankan citizen, if he is released on bail by suspending the sentence, there is every likelihood of absconding and involve in similar type of activities. So this petition deserves no consideration and accordingly, it is liable to be dismissed.

10. In the result, this criminal miscellaneous petition is dismissed.

sd/-

15/09/2022

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/09/2022

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

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
SPECIAL COURT FOR EC-NDPS ACT, PUDUKOTTAI.

2 THE SUPERINTENDENT, CENTRAL PRISON-I, PUZHAI, CHENNAI.

3 THE INSPECTOR OF POLICE, Q-BRANCH CID, TRICHY.

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

+1. C.C. to M/S.K.P.NARAYANAKUMAR, Advocate (SR.No.10106[I] dated 16.09.2022)

ORDER

IN

CRL MP(MD) No.7501 of 2022

IN

CRL A(MD) No.512 of 2021

Date :15/09/2022

er

RS/SBN/SAR.1 (29.09.2022) 3P-6C