



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

Tuesday, the First day of November Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

Crl.M.P(MD)No.11997 of 2022
in
Crl.A(MD)No.622 of 2022

SUNDATHEVAR

... PETITIONER/APPELLANT/
ACCUSED NO.2

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
NIB-CID, THENI DISTRICT.
CR.NO.205/2017

... RESPONDENT/ RESPONDENT/
COMPLAINANT

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 on the petitioner appellant accused no.2 namely Sundarthevar S/o.Paraman passed by the Learned I-Additional Special Court for NDPS Act cases Madurai in C.C.No.1/2019 dated 06.09.2022 and enlarge us on bail, pending disposal of the Criminal Appeal.

Prayer in CRL A(MD). 622/ 2022 :

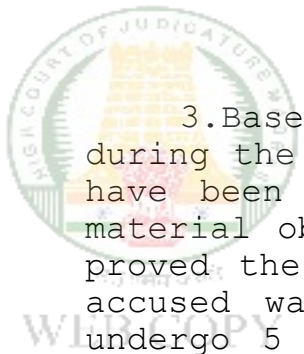
To call for the records in C.C.No.1 of 2019 dated 06.09.2022 on the file of the Learned I Additional Special court for NDPS Act Cases, Madurai and set aside the same.

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.JEGADEESH PANDIAN.M, Advocate for the petitioner and of M/S.S.RAVI, Additional Public Prosecutor, on behalf of the Respondent the court made the following order:-

This petition is filed to suspend the sentence imposed against the petitioner, by Judgment dated 06.09.2022, by the Sessions Judge, I Additional Special Court for NDPS Act Cases, Madurai.

2.The case of prosecution in brief is as follows:

On 05.12.2017, at about 14hours, on the Sivraj Nagar Road, opposite to Theni Busstand, the accused was found transporting 10 kgs of ganja, in an Auto bearing registration No.TN 60 F 8169.



3. Based on the above said occurrence, a case was registered during the course of trial, on the side of prosecution, 3 witnesses have been examined, 11 documents have been marked, apart from 4 material objects. At the conclusion of trial, the prosecution has proved the case beyond all reasonable doubts and accordingly, the accused was found guilty and he was convicted and sentenced to undergo 5 years rigorous imprisonment and also to pay a fine of Rs.50,000/-, for the offence under Section 8(c) r/w 20(b)(ii)(B) of NDPS Act. Challenging the above said conviction and sentence, this appeal has been preferred. Pending appeal, this petition has been filed by the petitioner.

4. The learned counsel for the petitioner would submit that the petitioner has not involved in any previous cases.

5. Per contra, the learned Additional Public Prosecutor would submit that the Judgment is of recent origin and the trial Court recorded a clear finding of guilty.

6. Perusal of records, this petitioner was tried along with one Kathirraj. The petitioner was shown as second accused. His defence before the trial Court is that the Auto, in which, the alleged contraband said to have been transported, belongs to him. In the particular time of occurrence, he came to his house for taking lunch. At that time, the Police took away his Auto and foisted a false case.

7. On perusal of Judgment shows that this petitioner is the driver of the above said Auto. On the particular day of occurrence, on secret information furnished by Police Informer, a Police team was looking out for the suspect. At that time, this petitioner was found driving the Auto. On seeing the Police Party, he ran away from that place. Another person was available in the auto and on the basis of confession statement of above said person/first accused, the involvement of this petitioner came to light and he was arrayed as second accused. Even the learned counsel for the petitioner would submit that no previous case is pending against the petitioner, the Judgment is only of recent origin and if the petitioner released on bail, on suspending his sentence, he may again indulge in similar kind of activity. Hence, he can revive the petition, after some time.

8. With the above said liberty, this Criminal Miscellaneous Petition stands dismissed.

sd/-

01/11/2022

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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 SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3. THE INSPECTOR OF POLICE
NIB-CID, THENI DISTRICT.

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

ORDER

IN

Crl.M.P(MD)No.11997 of 2022
in

Crl.A(MD)No.622 of 2022

Date :01/11/2022

RK/GB/SAR-4 (04/11/2022) 3P/5C