



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

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

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PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.11994 of 2022

IN

CRL A(MD) No.621 of 2022

KANNAN

... PETITIONER/APPELLANT/
SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
CUMBUM NORTH POLICE STATION,
THENI.
(CRIME NO.54 OF 2015)

... RESPONDENT/RESPONDENT/
COMPLAINANT

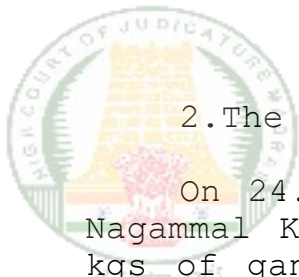
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Sentence imposed on the petitioner/appellant/sole accused namely Kannan S/o. Ganesan, passed by the learned II Additional Special Court for NDPS Act Cases, Madurai in C.C.No. 113 of 2015, Dated. 19.09.2022 and enlarge the petitioner on bail, pending disposal of the Criminal Appeal.

PRAYER IN CRL.A(MD)No.621/2022:

Pleased to call for the records in C.C.No.113 of 2015 dated 19.09.2022 on the file of the Learned II 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 Mr.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 19.09.2022, by the Sessions Judge, II Additional Special Court for NDPS Act Cases, Madurai.



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

On 24.01.2015, at about 7.45PM, on Cumbum - Kombai road, near Nagammal Kovil, the accused was found in illegal possession of 12 kgs of ganja, in his two wheeler bearing registration No.TN 60 Z 7648.

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3.Based on the above said occurrence, a case was registered and during the course of trial, on the side of prosecution, 3 witnesses have been examined, 11 documents have been marked, apart from 3 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 even as per the case of prosecution, no information was recorded in the General Diary and identification of this petitioner was also not properly verified, which is doubtful.

5.Per contra, the learned Additional Public Prosecutor would submit that the petitioner was apprehended in the place of occurrence along with the contraband. There was no violation of procedure, during the course of investigation. According to him, no interference is called for to suspend the sentence.

6.Perusal of Judgment shows that on secret information furnished by a Police Informer, a Police team went to the place of occurrence and at that time, the petitioner was found riding a two wheeler and on search, he was found in illegal possession of 12 kgs of ganga. The contention on the part of petitioner, to the effect that the above said information was not recorded in the General Diary, is a matter for consideration in the appeal. The contentions as to whether information was recorded in the General Diary; proper permission was obtained from the Inspector of Police; the Police team went to the place of occurrence; arrested the petitioner along with the contraband and proper identification of the petitioner was not verified, are all matters for consideration in the appeal.

7.Further, perusal of Judgment shows that the petitioner was the owner of the vehicle bearing registration No.TN 60 Z 7648. All the points have been taken into account by the trial Court. Whether the prosecution suffers from any technical defect, is a matter for consideration at the time of appeal. Since the Judgment is of recent origin, there is every likelihood of committing very same offence, if the sentence of the petitioner is suspended. The



8. In view of the above, 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 III ADDITIONAL SPECIAL JUDGE FOR NDPS ACT CASES,
MADURAI.
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE
CUMBUM NORTH POLICE STATION,
THENI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL MP(MD) No.11994 of 2022
IN
CRL A(MD) No.621 of 2022
Date :01/11/2022

PNM

SA/SBN/SAR.3/04.11.2022/3P/5C