



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

Friday, the Fourth day of February Two Thousand and Twenty Two

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.10921 of 2021
in
Crl.A.(MD)No.512 of 2021

RAGU @ RAGUNESH

... PETITIONER/ APPELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
Q BRANCH CID, TRICHY.
(CRIME NO.2 OF 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 petitioner/appellant U/s. 8(3) r/w. 20(b) (ii) (B) NDPS Act and under Section 294(b), 353 and 506 (ii) IPC in C.C.No.66/2017, dated 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:

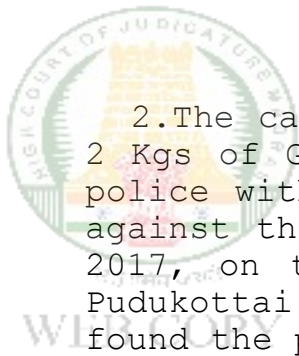
To call for records relating to the order of conviction in C.C. 60 of 2017 passed by learned Additional District and Sessions Judge, Special Court for EC-NDPS Act, Pudukottai dated 26.10.2021 and allow the appeal and may acquit the appellant.

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

Reserved On : 07.01.2022

Delivered on :04.02.2022

This petition has been filed to suspend the sentence passed by the Additional District and Sessions Judge, Pudukottai, in C.C.No.66 of 2017, dated 26.10.2021 and to enlarge the petitioner on bail, pending the disposal of the Criminal Appeal.



2.The case against the petitioner is that he was in possession of 2 Kgs of Ganja and the petitioner and other accused threatened the police with weapons. A case in Crime No.2 of 2017 was registered against the petitioner. The case was taken on file as C.C.No.66 of 2017, on the file of the Additional District and Sessions Judge, Pudukottai. The Additional District and Sessions Judge, Pudukottai, found the petitioner guilty under Sections 294(b), 353, and 506(ii) I.P.C and Section 8(c), r/w. Section 22(b) (ii)(B) of NDPS Act and sentenced the petitioner to undergo four years rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only), in default, to undergo a further period of three months simple imprisonment under Section 8(c), r/w. Section 22(b) (ii)(B) of NDPS Act and sentenced him to undergo two months rigorous imprisonment under Section 294(b) I.P.C., and sentenced him to undergo one year rigorous imprisonment under Section 353 I.P.C. and sentenced him to undergo three years rigorous imprisonment under Section 506(ii) IP.C, Against the conviction and sentence imposed by the Special Court, the petitioner / A1 filed a criminal appeal in Crl.A.(MD)No.512 of 2021. Along with the appeal, he has filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that the petitioner is a Srilankan, residing in K.K.Nagar, Trichy. A false case was registered against the petitioner, as if he threatened the police officials with knife and that he was transporting 2 Kgs of Ganja. The procedures under Sections 41, 42 and 52 of NDPS Act were not followed by the respondent. The petitioner and two others were the accused. The offence under NDPS Act was not mentioned in the F.I.R. Only the next day (ie.28.05.2017), the section was inserted. Only on 12.06.2017, the contra band were produced before the Court. The independent witness has deposed that he signed in Ex.P6 to Ex.P8 in the police station. The evidence reveals that the independent witness signed the documents not in the place of occurrence, but, in the police station. The Investigation Officer has deposed that he did not examine the Special Tahsildar for Srilangan Refugee. The petitioner was arrested by the police and there is no question of threatening the police. The contraband was seized from the Car and not from the petitioner. The samples of the contraband was taken for analysis and sent to the Judicial Magistrate, on 27.05.2017. The investigation officer has admitted that on her application it was sent for analysis, only on 13.06.2017. No individual witness was examined and that there are much more points for consideration in the main appeal and prayed the sentence to be suspended till the disposal of the appeal.

4.On the side of the prosecution, it is stated that all the accused involved in the case are Srilangan Refugees. Queue Branch is authorized by the State Government. There is no illegality in the procedures. The contraband were seized on 27.05.2017 and on the next day, ie. 28.05.2017, the contraband were produced before the



Court. The NDPS Court returned the same for getting endorsement from the Judicial Magistrate. After making such endorsement, the contraband was produced before the Trial Court. There is no delay in producing the contraband and there is no violation under the NDPS Act.

WEB COPY

5. The petitioner was already granted bail by the trial Court. But, he absconded. In paragraph - 10 of the counter affidavit, it is stated that the appellant did not appear from 25.04.2019 to 06.08.2021, that is for two years. He ran away to stay Abroad. Interpol is searching the Accused Nos.2 and 3. The petitioner and others indulged in smuggling Ganja from Tamil Nadu to Srilanka, they were armed with weapons. The articles were seized from the petitioner. The petitioner was impleaded in the case on the confession of co-accused. Ex.P9 was signed in the place of occurrence. Only when steps were taken to seize the property of the petitioner, the petitioner came forward to surrender. If the suspension of sentence is given, again the petitioner may abscond and he may move to Srilanka and prayed the petition to be dismissed.

6. It is seen that the case against the petitioner is transporting 2 Kgs of Ganja and for threatening the police officials with weapons. The offence as alleged against the petitioner is serious in nature. The judgment is only a recent one, ie. dated 26.10.2021. Considering the fact that the judgment is a recent one and considering the nature of the offence, this Court is not inclined to suspend the sentence at the present stage.

7. Hence, this Petition is dismissed.

sd/-

04/02/2022

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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 AND SESSIONS JUDGE,
SPECIAL COURT FOR EC-NDPS ACT, PUDUKOTTAI.



2 THE INSPECTOR OF POLICE
Q BRANCH CID, TRICHY.

3 THE SUPERINTENDENT, CENTRAL PRISON,
TRICHY.

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

+1 CC to M/s.K.P.NARAYANA KUMAR, Advocate (SR-4291[F] dated
04/02/2022)

ORDER

IN

CRL MP(MD) No.10921 of 2021 in

Cr1.A.(MD)No.512 of 2021

Date :04/02/2022

LS

MS/JM/SAR-2/17.02.2022/4P.6C