



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

Thursday, the Seventeenth day of February Two Thousand and
Twenty Two

WEB COPY

PRESENT

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

CRL MP(MD) No.12081 of 2021

IN

CRL A (MD)No.547 of 2021

J.GOWTHAM

... APPELLANT/ACCUSED NO.1

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
NIB CID, MADURAI
(CRIME NO. 12/2018)

... RESPONDENT/COMPLAINANT

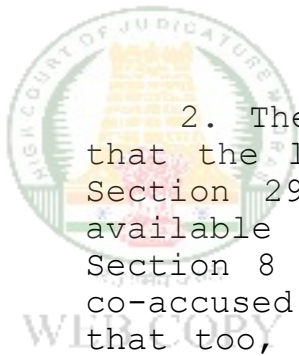
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence in C.C.No. 406/2018 dated 29.10.2021 on the file of the Learned I Addl Special court NDPS Act case, Madurai and enlarge the petitioners on bail till disposal of the Criminal Appeal

PRAYER IN CRL A(MD)No. 547 of 2021:

Pleased to call for the records and to set aside the conviction and sentence passed in C.C.No.406 of 2018 dated 29.10.2021 on the file of the Learned 1st Additional Special Court for NDPS Act Case, Madurai so far as Appellant Concerned.

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.K.RAMAKRISHNAN, Advocate for the petitioner and of MRS.ASHA, Additional Public Prosecutor on behalf of the Respondent, While admitting the Criminal Appeal, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the Conviction and Sentence imposed against the petitioner by the learned I Additional Special Court for Narcotic Drugs and Psychotropic Substances Act Cases, Madurai by its judgment dated 29.10.2021 in C.C.No.406 of 2018 convicted the petitioner under Sections 8 (c) read with Section 20 (b) (ii) (c) of Narcotic Drugs and Psychotropic Substances Act and 248 (2) Cr.P.C and sentenced the petitioner to undergo 10 years of Rigorous Imprisonment and to pay a fine of Rs.1,00,000/- (Rupees One Lakh only) in default to under Simple Imprisonment for six months. Against the judgment of the trial Court, the petitioner has preferred an appeal before this Court and seeks to suspend the sentence.



2. The learned counsel appearing for the petitioner submitted that the learned trial Judge after acquitting the appellant under Section 29 of NDPS Act after holding that there is no evidence available for conspiracy, ought not to convict this appellant under Section 8 (c) read with 20 (b) (ii) (c) only on the basis of the co-accused confession against the Hon'ble Supreme Court judgments, that too, after regarding finding that there was no evidence other than the co-accused confession as admitted by P.W.1 and P.W.3. He also submitted that the above said Section only invoked against the accused A.2 from whom entire contraband was recovered and hence the presumption under the act was invoked against him alone. Without any proper legal proof ownership of the appellant over the vehicle involved in the occurrence, the conviction against the accused ought not have passed. The following evidence are clearly proved that the prosecution did not prove the ownership of the vehicle involved in the occurrence.

3. The learned Additional Public Prosecutor submitted that the respondent followed all the procedures as contemplated under the Act and proved the case beyond reasonable doubt. Therefore, there is no ground to consider the petition for suspension of sentence while pending the appeal. Considering the facts and circumstances of the case and also considering the nature of the offence, this Court is not inclined to suspend the sentence and hence this Criminal Miscellaneous Petition is dismissed.

sd/-
17/02/2022

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

TO

- 1 THE I ADDITIONAL SPECIAL
FOR NDPS ACT CASE, MADURAI.
- 2 THE INSPECTOR OF POLICE
NIB CID, MADURAI
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, MADRUAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADRUAI.

ORDER

IN

CRL MP(MD) No.12081 of 2021

IN

CRL A (MD) No.547 of 2021

Date :17/02/2022

mga

<https://hccr.civildatas.com/In/Case/2022/2P/5C>