



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

Thursday, the Twenty Fourth day of November Two Thousand and Twenty Two

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.13887 of 2022

IN

CRL A(MD) No.733 of 2022

ANANTHAKUMAR

... PETITIONER/APPELLANT/ACCUSED NO.4

Vs

State Rep.by
THE INSPECTOR OF POLICE
NIB-CID POLICE STATION,
MADURAI DISTRICT.
(IN CR NO.13/2020)

... 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 by the learned 1st Additional Special Court for NDPS Act Cases, Madurai in CC No.155/2020 dt.10.08.2020 on bail, pending disposal of the Criminal Appeal.

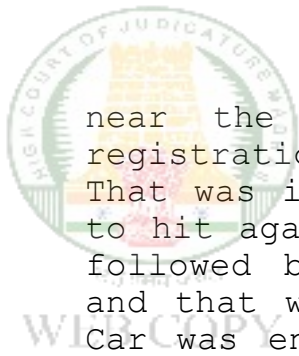
Prayer in CRL A(MD).733/2022 :

To call for the records and allow the above appeal and set-aside the conviction and sentence passed by judgment dated 29.08.2022 in C.C.No.155/2020 of the Learned 1st Additional Special Court for NDPS Act Cases at Madurai and acquit the appellants herein of all the charges.

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.SARAVANA BAGAVATHY K, 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 sentence imposed against the petitioner/A4 in CC No.155 of 2020, dated 10/08/2022 by the I Additional Special Court for NDPS Act Cases, Madurai and enlarge the petitioner on bail pending disposal of the criminal appeal.

2.The case of the prosecution is that 15/02/2020 at about 5.45 hours in the morning, on the secrete information from the police in Madurai, the police team were on look out the suspected persons



near the place of occurrence. At that time, a Car registration No.TN-58-AU-8898 was coming in a suspicious manner. That was intercepted. But however, the driver of the vehicle tried to hit against the police and fled away from that place. They were followed by another vehicle bearing registration No.TN-09-BW-5591 and that was also intercepted and the occupants of the above said Car was enquired. On enquiry and search, they have been found in possession of contraband, weighing about 168 kgs. So further proceedings were undertaken as per procedure and all the accused were apprehended in the spot itself.

3.On the basis of the above said occurrence, the case was registered and after completing the formalities of investigation, final report was filed before the concerned court.

4.During the course of the trial process, on the side of the prosecution, 5 witnesses were examined and 22 documents marked, apart from 34 material objects. On the side of the accused, no oral or documentary evidence was adduced.

5.At the conclusion of the trial, the trial court came to the conclusion that the charge under section 8(c) r/w 20(b)(ii)(C) of NDPS Act stands proved against A1 to A4 and accordingly, convicted and sentenced them to undergo 10 years Rigorous Imprisonment and imposed a fine of Rs.1,00,000/- in default to undergo 1 years Simple Imprisonment and in respect of A5, A5 was acquitted.

6.Now challenging the above said conviction and sentence, appeal has been preferred. Pending appeal, this petition has been preferred seeking suspension of sentence by the petitioner/A4.

7.Heard both sides.

8.The learned counsel appearing for the petitioner/A4 would submit that sections 50(1) and 57 of the NDPS Act have been violated; so on the basis of the above said violation itself, suspension of sentence must be ordered, which is also maintainable in law.

9.Per contra, the learned Additional Public Prosecutor would submit that proper explanation and reason has been offered by the prosecution before the trial court and that was also accepted by the court in para 29 of its judgment. It is also submitted that section 50(1) of the NDPS Act is not applicable to the facts and circumstances of the present case, since calls were intercepted, wherein the accused and other persons were found.

10.Perusal of the case records shows that huge quantity of contraband weighing about 168 kgs have been recovered from the Car, in which all the accused persons were travelling.



11.The evidence of PW2 is also clear to the effect the secrete information, which was furnished by the police informer was recorded in the general diary and proper permission was also obtained from the higher officials.

12.Whether the defence, that has been pointed out by the petitioner/A4 affects the prosecution or not is a matter for consideration in the main appeal. Para 30 of the judgment shows that there was no violation of section 50(1) or 57 of the NDPS Act and no convincing point has been raised by the petitioner to record a contra finding.

13.Considering the magnitude of the contraband that has been recovered, I am of the considered view that this is not a fittest case to suspend the sentence. Accordingly, this criminal miscellaneous is liable to be dismissed and dismissed.

sd/-

24/11/2022

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/12/2022

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

TO

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

ORDER

IN

CRL MP(MD) No.13887 of 2022

IN

CRL A(MD) No.733 of 2022

Date :24/11/2022

er

RS/VR/SAR.4(19.12.2022) 3P-5C