



CRL.MP.NO.547 OF 2023 IN CRL.A.NO.50 OF 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRL.MP.NO.547 OF 2023

IN

CRL.A.NO.50 OF 2023

Shajakhan

... Petitioner

Vs.

The State Represented by
The Inspector of Police
NIB., C.I.D. Police Station
Coimbatore.
(Crime No.275/2017)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C., to suspend the sentence passed in the judgment and sentence dated 20.12.2022 imposed in C.C.No.102 of 2020 by the learned Special Court under EC Act / NDPS Act, Coimbatore and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

For Petitioner ... Mr.R.Vivekananthan

For Respondent ... Mr.A.Gokulakrishnan
Additional Public Prosecutor



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ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed in C.C.No.102 of 2020 dated 20.12.2022 by the Special Court under EC Act / NDPS Act, Coimbatore (FAC) and to enlarge the petitioner on bail till the disposal of the above Criminal Appeal.

2.The Trial Court, by its judgment dated 20.12.2022 in C.C.No.102 of 2020 convicted and sentenced the petitioner / sole accused as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	235(2) Cr.P.C.	Ten years RI and to pay a fine of Rs.1,00,000/- under Section 20(b) (II) (B) of NDPS Act, in default of payment of fine to undergo further two years RI
The sentences shall run concurrently; the imprisonment has already undergone by the accused, if any, shall be set off as per Section 428 Cr.P.C.		

3.The petitioner, who is the sole accused in C.C.No.102 of 2020, aggrieved over the judgment of conviction and sentence imposed on him has filed the present Criminal Appeal along with the instant



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miscellaneous petition, seeking suspension of sentence and to enlarge him on bail.

4.The learned counsel for the petitioner submitted that the petitioner is the sole accused. The respondent police had registered a case in Crime No.275/2017 for the offences punishable under Section 8(c) read with 20(b)(ii)(B) of the Narcotic Drug and Psychotropic Substances Act, 1985 (NDPS) for having found the petitioner in illegal possession of 16Kgs of Ganja in a white colour plastic bag. Further, the contraband involved in the case is not commercial quantity and it is only an intermediate quantity. The petitioner was arrested and remanded to judicial custody subsequently and he is in prison from 20.12.2022.

5.The learned Additional Public Prosecutor for the respondent objected to suspend the sentence and submitted that the petitioner has involved in similar case previously and in the said case, investigation is yet to be completed. He also admitted that the petitioner is in prison from 20.12.2022.



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6. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and perused the entire materials available on record.

7. The petitioner has raised substantial grounds in the appeal which require detailed appraisal. Further, the Criminal Appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

8. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:

- (i) The petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) along with two sureties each for a like sum to the satisfaction of the Trial Court;



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(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds and the trial Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity; and;

(iii) The petitioner shall appear before the trial Court as and when required.

20.04.2023

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TK

To

1.The Additional District Judge & Presiding Officer
Special Court under EC Act / NDPS Act
Coimbatore (FAC).

2.The Superintendent
Central Prison, Coimbatore.

3.The Inspector of Police
NIB., C.I.D. Police Station, Coimbatore.

4.The Public Prosecutor
High Court of Madras.

V.SIVAGNANAM, J.



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