



WEB COPY



Crl.M.P.No.1473 of 2023 in Crl.A.No.117 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.1473 of 2023

in

Crl.A.No.117 of 2023

1.Srinu Babu

2.Venkata Rao

3.Raju Babu

... Petitioners

/vs/

The State Represented by,
The Inspector of Police,
NIB-CID, Kancheepuram.

... Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) of Cr.P.C., to suspend the sentence imposed in C.C.No.176 of 2021 dated 20.12.2022 by the learned Principal Special Court under EC & NDPS Act, Chennai and enlarge the petitioners on bail till the disposal of the above appeal.

For Petitioners

... Mr. R.C.Paul Kanagaraj

For Respondent

... Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER



This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed in C.C.No.176 of 2021 dated 20.12.2022 by the learned Principal Special Court under EC & NDPS Act, Chennai.

2. The trial court, by its judgment dated 20.12.2022, convicted and sentenced the petitioners/accused as follows;

<i>Petitioners' Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
A1 to A3	U/s.8(c) r/w. 20(b)(ii)(C) of the NDPS Act	To undergo rigorous imprisonment for 12 years each and to pay a fine of Rs.1,00,000/- each and in default of payment of fine thereof to undergo further period of 6 months RI.
	U/s.8(c) r/w.29(1) of the NDPS Act	To undergo rigorous imprisonment for 7 years each and to pay a fine of Rs.50,000/- each and in default of payment of fine thereof to undergo further period of 6 months RI.

The sentences of imprisonment were ordered to run concurrently.

3. Challenging the above conviction and sentence imposed on the petitioner in C.C.No.176 of 2021, the petitioner has filed the present criminal revision case.

4. The learned counsel for the petitioners submitted that there is



material inconsistency in the prosecution documents. In the seizer magazars Ex.P5 and Ex.P6 the time is mentioned as 14.03.2021 at about 9.30 a.m, but in the arrest memo, Ex.P7 it is recorded as on 14.03.2021 at about 10.30 a.m the accused persons arrived from Visagapattinam with the contraband and have been arrested near Kamarajar Statue. This apparent inconsistency in the documents of the prosecution shows that there is arguable point in favour of the petitioners. The petitioners/ accused is in custody from 20.12.2022. The learned counsel for the petitioners would further submit that the judgment of the trial court is contrary to law, weight of evidence and probabilities of the case. He would further submit that there are arguable points in this Appeal and the petitioners have every chance to succeed in this Criminal Appeal. Thus, he prayed for suspension of sentence till the disposal of this Criminal Appeal.

5. The learned Additional Public Prosecutor submitted that the respondent police arrested the accused for having illegal possession of 42 kgs of ganja and registered a case. The trial Court after considering the evidence found the petitioners guilty for offence U/s.8(c) r/w. 20(b)(ii)(C) of the NDPS Act and U/s.8(c) r/w.29(1) of the NDPS Act and convicted them.



Hence, he objected for grant of suspension of sentence and bail.

WEB COPY

6. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

7. On consideration of the submission of the counsel on both side and on a perusal of the records it is noticed that in Ex.P5 and Ex.P6 seizer magazars, the police recorded that on 14.03.2021 at about 9.30 a.m. the contraband has been seized from the accused. In Ex.P7 arrest memo it is recorded as on 14.03.2021 at about 10.30 a.m while accused arrived from Visagapattinam the contraband were seized and arrested near Kamarajar Statue. So this timing inconsistency shows arguable point in favour of the accused. The petitioners have raised substantial grounds in the Appeal which require detailed appraisal. Further, the 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 petitioners are entitled to the relief of suspension of sentence and bail.

8. Accordingly, the relief of suspension of sentence and bail is granted



Crl.M.P.No.1473 of 2023 in Crl.A.No.117 of 2023

to the petitioners on the following conditions:

WEB COPY

- (i) The petitioners are ordered to be released on bail on executing a bond for a sum of Rs.10,000/-(Rupees ten thousand only) each along with two sureties, each for a like sum, to the satisfaction of the Trial Court.
- (ii) The petitioners 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 petitioners shall appear before the trial Court on the first working day of every month until further orders.

05.04.2023

dsa



WEB COPY



Crl.M.P.No.1473 of 2023 in Crl.A.No.117 of 2023

V.SIVAGNANAM, J.

dsa

To

- 1.The Principal Special Judge under EC & NDPS Act, Chennai.
- 2.The Inspector of Police,
NIB-CID, Kancheepuram.
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison, Puzhal.

Crl.M.P.No.1473 of 2023
in
Crl.A.No.117 of 2023

05.04.2023