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Crl.M.P.No.1933 of 2023 in Crl.A.No.135 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.1933 of 2023

in

Crl.A.No.135 of 2023

1. Mukundhan
2. Manu @ Mannaar

... petitioners

/vs/

The State, represented by
the Inspector of Police,
Thudiyalur Police Station,
Thudiyalur,
Coimbatore District.
Cr.No.1542 of 2020

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389 (1) of Cr.P.C., to suspend the conviction and sentence imposed on the petitioner in C.C.No.107 of 2020, dated 28.12.2022 on the file of the Special Court under EC Act/NDPS Act, Coimbatore, Coimbatore District, pending disposal of the criminal appeal.

For petitioners ... Mr. C.Prakasam

For Respondent Mr.C.E.Pratap, GA (crl.side)



ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed by the order passed against the petitioners in C.C.No.107 of 2020 by the learned Special Court under EC Act/NDPS Act, Coimbatore, dated 28.12.2022 and enlarge them on bail pending disposal of the criminal appeal.

2. The petitioners, who are A1 and A2 in C.C.No.107 of 2020 were convicted and sentenced by the trial court on 28.12.2022 as follows:

<i>petitioners' Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
A1 and A2	1)U/s.8(c) r/w.20 (b) (ii) (B) and 29(1) of NDPS Act	Each to undergo RI for three years and to pay a fine of Rs.10,000/- each, in default in payment of fine, each to undergo further 2 years of RI.
The sentence of imprisonment is ordered to run concurrently.		

3. Challenging the above conviction and sentence, the petitioners have preferred the present criminal appeal case along with the instant miscellaneous petition, seeking suspension of sentence and bail.

4. The learned counsel for the petitioners submitted that the petitioners are only in possession of 1.500 kg of Ganja which is an intermediate quantity



and there is no previous case against the petitioners involving similar offence.

He further submitted 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 Govt. Advocate (crl.side) submitted that the petitioners were selling dry ganja weighing 1.500 kgs. The trial court convicted the petitioners only after scrutinising the evidence of the prosecution witnesses and supporting documents. Thus, he objected for granting suspension of sentence to the petitioners. However, he fairly conceded that the petitioners have no previous criminal antecedents.

6. Heard the learned counsel for the petitioners and the learned Govt. Advocate (crl.side) appearing for the respondent and perused the materials available on record.

7. The petitioners have raised substantial grounds in the appeal which require detailed appraisal and the appeal is not likely to be taken up in the near future. Further the quantity of the Ganja involved is intermediate quantity and the petitioners are having no previous antecedents. Considering



the facts and circumstances of the case, 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 to the petitioners on the following conditions:

- (i) The petitioners shall surrender before the Trial Court within two weeks from the date of receipt of a copy of this order and on such surrender, the petitioners are ordered to be released on bail on their 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 as and when required.

14.02.2023

msr

To

1. The Special Court under EC Act/NDPS Act, Coimbatore,
2. The Inspector of Police, Thudiyalur Police Station,
Thudiyalur, Coimbatore District.
3. The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

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