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Crl.M.P.No.3053 of 2023 in Crl.A.No.211 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.3053 of 2023

in

Cr.A.No.211 of 2023

1. K.Akbarkhan
2. M.Loganathan @ Gana Logu
3. P.Manikanden @ Ninchamani
4. P.Melki
5. K.Krishna @ Height Kirshna ... Petitioners

/vs/

The Inspector of Police,
H.6 R.K. Nagar Police Station,
Chennai - 600 021. .. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389 [1] of Cr.P.C. to suspend the sentence imposed in judgment dated 20.02.2023 against the petitioners herein in C.C.No.57 of 2021 on the file of Principal Sessions Judge, Special Court under EC & NDPS Act, Chennai and release the petitioners on bail.

For petitioners ... Mr. M.G.Martin Manivannan
For Respondent ... Mr.A.Gokulakrishnan,
Additional Public Prosecutor



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ORDER

This petition has been filed to suspend the sentence imposed in judgment dated 20.02.2023 against the petitioners herein in C.C.No.57 of 2021 on the file of Principal Sessions Judge, Special Court under EC & NDPS Act, Chennai and release the petitioners on bail.

2. The respondent police registered a case in Crime No.97/2020 against the petitioners for the offence punishable under Sections. 8 [c], 20 [b] [ii] [B] of NDPS Act. The case of the prosecution is that, on receipt of a secret information about the sale of Ganja, the respondent police went to the scene of occurrence on 30.01.2022 at 8.00 a.m., where, the accused persons were found in possession of 1.300kg of Narcotic substances (Commercial quantity), and hence the above case was registered as stated above and the contraband were seized. On completion of investigation, final report has been filed by the respondent and the same has been taken on file in C.C.No.57 of 2021 by the learned Principal Sessions Judge, EC & NDPS Court, Chennai. On the Side of Prosecution P.W.1 to P.W.4 were examined and Ex.P.1 to Ex.P.8 were marked and on the side of defence Ex.P.D1 &



Ex.D.2 were marked. No witness was examined on the side of the defence.

The trial Court, considering the entire materials convicted the petitioners/accused as follows :

<i>Rank of the accused</i>	<i>Convicted under Sec.</i>	<i>Sentence</i>
A1	Section 8[c] r/w.20[b] [ii] [B] of NDPS Act	5 years rigorous imprisonment and to pay a fine of Rs.50,000/- in default to undergo further period of 6 months rigorous imprisonment.
A1 to A5	Sec.29[1] of NDPS Act	each to undergo 2 1/2 years Rigorous imprisonment and each to pay a fine of Rs.20,000/- in default to undergo further 6 months rigorous imprisonment.
Total fine amount of Rs.1,50,000/-. The period of remand already undergone by the accused are ordered to be set of u/s.428 Cr.P.C. and the sentences are ordered to run concurrently.		

Challenging the above judgment, the petitioners filed the Criminal Appeal along with the present petition to grant suspension of sentence imposed on them.

3. The learned counsel for the petitioners submitted that the judgment of the trial court is contrary to law, weight of evidence and probabilities of the case. He further submitted that the prosecution failed to establish the ingredients to attract the offences alleged against the petitioners and the mandatory provision of Sections 42 and 50 of NDPS Act are balantly



violated and the learned trial judge failed to appreciate entire evidence and conviction of the petitioners is unjust and against the principles of natural justice. Hence, they may be granted suspension of sentence imposed on them by the trial court.

4. 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.

5. Considering the submission made by the learned counsel appearing on both sides, and also taking into account the gravity of the offence involved in this matter, this Court is inclined ***to grant suspension of sentence imposed on this petitioners on the following conditions.***

[i] The petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.25,000/-(Rupees twenty five 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;



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and;

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

16.03.2023

VRC

To

1. The Principal Sessions Judge, Special Court Under EC & NDPS Act
2. The Inspector of Police, H-6 R.K.Nagar, Chennai.
3. The Superintendent, Central Prison, Puzhal.
4. The Public Prosecutor, High Court of Madras, Chennai.



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V.SIVAGNANAM, J.

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