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CRL.MP.NO.3204 OF 2023 IN CRL.A.NO.226 OF 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRL.MP.NO.3204 OF 2023

IN

CRL.A.NO.226 OF 2023

1.Ayyar
2.Bharathi

... Petitioners

vs.

State through
The Inspector of Police
NIB CID,
Kancheepuram.
Crime No.28 of 2018.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) r/w 439 Cr.P.C., to suspend the sentence of imprisonment imposed by the learned Special Judge, I Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai, in C.C.No.179 of 2018 dated 10.02.2023 and enlarge the petitioners / appellants on bail pending disposal of the Criminal Appeal.

For Petitioners ... Mr.R.Ganesh Kumar

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.179 of 2018 dated 10.02.2023 by the learned Special Judge, I Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai and enlarge the petitioners on bail till the disposal of the above Criminal Appeal.

2.The trial court, by its judgment dated 10.02.2023 in C.C.No.179 of 2018 convicted and sentenced A1 and A2 as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
A1	U/s. 8(c) r/w 20(b) (ii) (B) of NDPS Act	8 years RI and to pay a fine of Rs.80,000/- and in default thereof to undergo 6 months RI
A2	U/s. 8(c) r/w 20(b) (ii) (B) of NDPS Act	8 years RI and to pay a fine of Rs.80,000/- and in default thereof to undergo 6 months RI
Total fine amount is Rs.80,000/- + Rs.80,000/- = Rs.1,60,000/-. The period of detention already undergone by A1 and A2 from 06.07.2018 to 20.08.2018 during the course of investigation and trial shall be set off against the sentence of imprisonment imposed upon them as per Section 428 Cr.P.C.		



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3.The petitioners, who are A1 and A2 in C.C.No.179 of 2018, aggrieved over the judgment of conviction and sentence imposed on them, have filed the present Criminal Appeal along with the instant miscellaneous petition, seeking suspension of sentence and to enlarge them on bail.

4.The learned counsel for the petitioners submitted that the petitioners are A1 and A2. The respondent police had registered a case in Crime No.28/2018 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 petitioners in illegal possession of 20Kgs of Ganja in one plastic gunny bag and in a travel bag to sell the same to third parties. The petitioners are in prison from 10.02.2023. Further, the petitioners have paid the entire fine amount totalling to a sum of Rs.1,60,000/- before the Trial Court on 27.02.2023.

5.The learned Additional Public Prosecutor for the respondent objected to suspend the sentence, but conceded that there is no previous case against the petitioners for the similar type of cases. He also admitted that the petitioners are in prison from 10.02.2023.



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

7. 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 to the 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



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Aadhaar card or Bank pass Book to ensure their identity;
and;

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

05.04.2023

(2/2)

TK

To

- 1.The Special Judge
I Additional Special Court for
Exclusive Trial of Cases under NDPS Act,
Chennai.
- 2.The Superintendent
Central Prison at Puzhal, Chennai.
- 3.The Superintendent
Central Prison for Women at Puzhal, Chennai.
- 4.The Inspector of Police
NIB CID, Kancheepuram.
- 5.The Public Prosecutor
High Court of Madras.

V.SIVAGNANAM, J.



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