



Crl.MP No.3557 of 2023 in  
Crl.A.No.241 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 09.03.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE V.SIVAGNANAM**

**Crl.M.P.No.3557 of 2023**

**in**

**Crl.A.No.241 of 2023**

1. Jaya

2. Kaliyammal

... Petitioners

Vs.

State Rep. by the Inspector of Police,  
Inspector of Police,  
NIBCID,  
Chennai

... Respondent

**PRAYER:** Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed in C.C.No.188 of 2019 dated 21.02.2023 by the Principal Sessions Judge for NDPS cases at Chennai and enlarge the petitioners onbail till the disposal of the above Crl.Appeal.

For Petitioners

: Mr.R.C.Paul Kanagaraj

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 on the petitioners in C.C.No.188 of 2019 dated 21.02.2023 passed by the Principal Sessions Judge for NDPS cases at Chennai.

2.The Trial Court, by judgment dated 21.02.2023 passed in C.C.No.188 of 2019, convicted the petitioners for the offences punishable under Section 8(c) r/w 20(b)(ii)(C) of the NDPS Act and sentenced them to undergo 12 years each rigorous imprisonment and to pay a fine of Rs.1,20,000/- each, in default, to undergo further period of 6 months rigorous imprisonment. Further A1 to A3 are sentenced to undergo rigorous imprisonment for 5 years each and to pay a fine of Rs.50,000/- each for the offence under Section 8(c) r/w 29(1) of the NDPS Act and in default of payment of fine thereof to undergo further period of 6 months R.I.each.



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**WEB COPY** 3.Challenging the judgment of conviction and sentence, the petitioners preferred the present Criminal Appeal along with the instant petition, seeking to suspend the sentence of imprisonment.

4.The learned counsel for the petitioners submitted that the respondent-Police prosecuted the petitioners for the offences under Section 8(c) r/w 20(b)(ii)(C) of NDPS Act and Section 8(c) r/w 29(1) of NDPS Act in C.C.No.188 of 2019 on the file of the Principal Special under EC and NDPS Act, Chennai. After trial, the trial Court found guilty and convicted the petitioners and imposed sentence. The petitioners are in custody from 18.07.2019 and they are aged persons. Further, during the cross examination, the witnesses, P.Ws.1 to 3 deposed that all the contraband seized were placed before the accused persons and not seized from the accused persons as stated by the Mahazar and the alleged previous cases are not similar in nature with the present case. Therefore, they seek suspension of sentence and bail.



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**WEB COPY** 5.The learned Additional Public Prosecutor (Crl.Side) has filed a counter and objected to release the petitioners. He contended that petitioner No.1/Accused No.1 is involved in a similar type of case previously in Crime No.90 of 2017 and convicted in S.T.C.No.664 of 2017 on the file of the Judicial Magistrate-1, Namakkal. Therefore, he objected to suspend the sentence against the Accused-No.1. He further submitted that there is no previous case, insofar as the petitioner-2/Accused-3 is concerned.

6.Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondent and perused the impugned judgement and the materials on record.

7.On perusal of the records, it reveals that the petitioners are A1 and A3 in C.C.No.188 of 2019 on the file of the Principal Sessions Judge for NDPS Cases at Chennai. The respondent-Police prosecuted the accused persons for having committed punishable offences under Section 8(c) r/w 20(b)(ii)(C) of NDPS Act and Section 8(c) r/w 29(1) of the NDPS Act. The

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trial Court, after trial, found guilty and convicted the petitioners to undergo rigorous imprisonment for 12 years each. Aggrieved by the same, they filed the criminal appeal. However, the fact reveals that the Accused-1, namely, Jaya @ Jayanila. is involved in a similar case previously for the offence under Section 8(c) r/w 20(b)(ii)(A) of NDPS Act in Crime No.90 of 2017 and convicted in S.T.C.No.664 of 2017 on the file of the Judicial Magistrate-1, Namakkal. With regard to the petitioner-2/Accused-3, there is no previous case.

8. Considering the fact that the Petitioner-1/Accused-1, namely, Jaya @ Jayanila is involved in a similar type of case and convicted in S.T.C.No.664 of 2017 on the file of the Judicial Magistrate-1, Namakkal, this Court is not inclined to grant bail to the petitioner-1/Accused-1, namely, Jaya @ Jayanila. **Hence, the bail is dismissed against the petitioner-1/Accused-1, namely, Jaya @ Jayanila and** Considering the fact that the **petitioner-2/Accused-3, namely, Kaliyammal**, is aged about



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63 years and is not involved in any similar type of case previously and also fact that she is in judicial custody from 18.07.2019, I am inclined to grant the relief of suspension of sentence against her.

9. Accordingly, it is ordered as follows.

(i) The substantive sentence of imprisonment alone is suspended and the **petitioner-2/Accused-3, namely, Kaliyammal** is directed to be enlarged on bail on condition that the petitioner *shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Principal Sessions Judge for NDPS cases at Chennai.*

(ii) The **petitioner-2/Accused-3** and her sureties shall affix their photographs and Left Thumb Impression in the surety bond and the concerned Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.



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(iii) The **petitioner-2/Accused-3** shall appear before the Trial Court, **on first working day of every month.**

**09.03.2023**  
**(2/2)**

srn

**To**

1. The Principal Sessions Judge for NDPS, Chennai
2. The Superintendent, Central Prison, Puzhal (Women)
3. The Public Prosecutor, High Court of Madras, Chennai.



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**V.SIVAGNANAM, J.,**

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