



Crl.MP No.3772 of 2023 in
Crl.A.No.270 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.M.P.No.3772 of 2023

in

Crl.A.No.270 of 2023

Mohana

... Petitioner

Vs.

The Inspector of Police,
J-11, Kannagi Nagar Police Station,
Chennai 600 097

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence and enlarge the petitioner on bail imposed in C.C.No.184 of 2018, passed by the learned Principal Special Judge for EC and NDPS Act, Chennai, pending disposal of the above accompanying appeal.



WEB COPY



Crl.MP No.3772 of 2023 in
Crl.A.No.270 of 2023

For Petitioner : Mr.K.Shanmugam

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner in C.C.No.184 of 2018 dated 27.02.2023 passed by the learned Principal Special Judge for EC and NDPS Act, Chennai.

2. The petitioner is A1 in C.C.No.184 of 2018. The Trial Court, by its judgment dated 27.02.2023 convicted the petitioner for the offences punishable under Section 8(c) r/w 20(b)(ii)(B) of the NDPS Act and sentenced her to undergo 5 years rigorous imprisonment and to pay a fine of Rs.50,000/-, in default, to undergo further period of 6 months rigorous imprisonment.



Crl.MP No.3772 of 2023 in
Crl.A.No.270 of 2023

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

4.The learned counsel for the petitioner submitted that the judgment of the trial court is contrary to law, weight of evidence and probabilities of the case. The learned counsel for the petitioner submitted that the respondent-Police prosecuted the petitioner along with other accused for the offences under Section 8(c) r/w 20(b)(ii)(B) of the NDPS Act in C.C.No.184 of 2018 on the file of the Principal Special under EC and NDPS Act, Chennai for having illegal possession of 1.700 gms of Ganja. After trial, the trial Court found guilty and convicted the petitioner and imposed sentence as stated above. The petitioner/A1 is now in custody and she is suffering from tuberculosis. He further submitted that there is arguable point in favour of the



Crl.MP No.3772 of 2023 in
Crl.A.No.270 of 2023

WEB COPY

petitioner/A1 and the petitioner is having every chance to succeed in the appeal. Thus, he prayed for suspension of sentence imposed on the petitioner till the disposal of the appeal.

5.The learned Additional Public Prosecutor appearing for the respondent Police submitted that on 04.03.2017 at about 9.00 a.m, on receiving secret information about the illegal sale of Ganja, the respondent police arrested the petitioner along with other accused and seized 1.700 gms of Ganja from the accused persons. He further submitted that in a previous case, the accused was acquitted and only in this case, she was convicted for having illegal possession of 1.200 gms of ganja. Therefore, he objected to the grant of bail by suspending the sentence to the petitioner/A1.



Crl.MP No.3772 of 2023 in
Crl.A.No.270 of 2023

WEB COPY 6. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the impugned judgement and the materials on record.

7. On perusal of the records, it reveals that the petitioner is A1 in C.C.No.184 of 2018 on the file of the Principal Special Court under EC & NDPS Act, Chennai. The respondent-Police prosecuted the accused persons for having committed punishable offences under Section 8(c) r/w 20(b)(ii)(B) of the NDPS Act. The trial Court, after trial, found guilty and convicted the petitioner/A1 to undergo rigorous imprisonment for 5 years and also to pay a fine of Rs.50,000/-, in default, to undergo further period of 6 months rigorous imprisonment. The learned counsel for the petitioner contended that now the petitioner /A1 has filed an appeal and there are arguable points in favour of the accused in this Appeal and there is a fair chance to succeed in the



Crl.MP No.3772 of 2023 in
Crl.A.No.270 of 2023

WEB COPY

appeal. He further submitted that the petitioner/A1 has been under judicial custody and she is suffering with tuberculosis and hence, she prayed for suspension of sentence.

8.Considering the fact that the petitioner/A1 has been under judicial custody and also taking into consideration of the submissions of the learned counsels appearing on both sides, this Court finds that the petitioner has raised substantial grounds in this Criminal Appeal, which require detailed appraisal and there is arguable point in favour of the petitioner/A1. Further, the appeal is not likely to be taken up in the near future and the petitioner/A1 is now under judicial custody. In such view of the matter, this Court is of the view that the petitioner/A1 is entitled to the relief of suspension of sentence and bail.

Therefore, this Court is of the view that the petitioner/A1 is entitled to the relief of suspension of sentence.



Crl.MP No.3772 of 2023 in
Crl.A.No.270 of 2023

WEB COPY 9. Accordingly, it is ordered as follows.

(i) The substantive sentence of imprisonment alone is suspended and the petitioner/A1 is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties each for a like sum to the satisfaction of the learned Principal Special Judge for EC and NDPS Act, Chennai.

(ii) The petitioner/A1 and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iii) The petitioner shall appear before the Trial Court, as and when required.

20.04.2023
(2/2)

srn

7 of 9



Crl.MP No.3772 of 2023 in
Crl.A.No.270 of 2023

WEB COPY **To**

1. The learned Principal Special Judge for EC and NDPS Act,
Chennai.
2. The Inspector of Police,
J-11, Kannagi Nagar Police Station, Chennai 600 097
3. The Superintendent, Central Prison, Puzhal (Women)
4. The Public Prosecutor, High Court of Madras, Chennai.



WEB COPY



Crl.MP No.3772 of 2023 in
Crl.A.No.270 of 2023

V.SIVAGNANAM, J.,

srn

Crl.M.P.No.3772 of 2023
in
Crl.A.No.270 of 2023

20.04.2023

(2/2)