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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2023

CORAM

THE HONOURABLE Mr. JUSTICE V. SIVAGNANAM

Crl.M.P.No.5159 of 2023

in

Crl.A.No.407 of 2023

Vijayakumar

... Petitioner

Vs.

State by the Inspector of Police,  
NIB, CID,  
Villupuram,  
Villupuram District.  
(Cr.No.35/2021)

... Respondent

Criminal Miscellaneous Petition filed under Section 389 (1) r/w. 439 of Cr.P.C., to suspend the sentence imposed on the petitioner by the learned Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases, Villupuram in Spl.Case No.21 of 2021 by the judgment dated 21.03.2023 and enlarge the petitioner on bail, pending disposal of the above appeal.

For Petitioner : Mr.T.Shanmugam

For Respondent : Mr.R.Vinoth Raja,  
Govt. Advocate (crl.side)

**ORDER**

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This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence of imprisonment imposed on the petitioner in Spl.Case No.21 of 202, dated 21.03.2023 on the file of the Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases, Villupuram and enlarge the petitioner on bail pending disposal of the above appeal.

2. . The trial court, by its judgment dated, 21.03.2023 made in Spl.Case No.21/2021 convicted and sentenced the petitioner/accused as follows;

| <b><i>Petitioner's Rank</i></b> | <b><i>Provision under which convicted</i></b> | <b><i>Sentence</i></b>                                                                                                                           |
|---------------------------------|-----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|
| Sole accused                    | U/s.8(c) r/w.20(b)(ii)(B) of NDPS Act         | To undergo RI for two years and to pay a fine of Rs.10,000/-, in default in payment of fine, to undergo RI for a further period of three months. |

3. Aggrieved over the judgment of conviction and sentence imposed by the trial court, the petitioner/accused has filed the present criminal appeal, along with the instant miscellaneous petition, seeking suspension of sentence and bail.



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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 respondent police prosecuted the petitioner for having committed the offence punishable under section 8(c) r/w.20(b)(ii)(B) of NDPS Act. He further submitted that the contraband involved in this case is only an intermediate quantity and not a commercial quantity and the fine amount imposed by the trial court was paid and the petitioner has been kept under judicial custody since 21.3.2023. There are arguable points in this Revision and the petitioner has every chance to succeed in this Criminal Revision Case. Thus, he prayed for suspension of sentence till the disposal of this Criminal Appeal.

5. The learned Govt. Advocate (crl.side) appearing for the respondent supporting the impugned order, objected for granting suspension of sentence to the petitioner, however, he conceded that the contraband involved in the case is an intermediate quantity and fine amount has been paid by the petitioner.

6. Heard both sides and perused the impugned order and materials available on record.



7. Perusal of records would reveal that the petitioner has raised substantial grounds in the appeal which require detailed appraisal. Further, the appeal is not likely to be taken up in the near future. Considering the fact that the quantity of contraband involved in this case is only an intermediate quantity and not commercial quantity and the petitioner is in judicial custody from 21.03.2023 and fine amount has already been paid, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

8. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:

(i) The petitioner is ordered to be released on bail on executing a bond for a sum of Rs.25,000/-(Rupees twenty five thousand only) along with two sureties, each for a like sum, to the satisfaction of the learned Special Judge for trial of Narcotic Drugs and Psychotropic Substances Act Cases, Villupuram.

(ii) The petitioner 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;



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(iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m., until further orders.

30.06.2023

msr

To

1. The Special Judge,  
The Special Court for Trial of Narcotic Drugs and Psychotropic  
Substances Act cases, Villupuram, Villupuram District.
2. The Inspector of Police,  
NIB, CID, Villupuram,  
Villupuram District.
3. The Public Prosecutor,  
High Court, Madras.
4. The Superintendent, Central Prison,  
Trichy

Note; Issue copy on 03.07.2023



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**V.SIVAGNANAM, J.**

msr

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**Crl.A.No.407 of 2023**

30.06.2023