



WEB COPY



CRL.MP.NO.5090 OF 2023 IN CRL.A.NO.403 OF 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRL.MP.NO.5090 OF 2023

IN

CRL.A.NO.403 OF 2023

Muthulakshmi

... Petitioner

Vs.

State rep. By Inspector of Police
G-2, Periamedu Police Station,
Chennai.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) Cr.P.C., to suspend the sentence of imprisonment imposed in C.C.No.90 of 2020 on the file of Principal Special Judge, Special Court under EC & NDPS Act Cases, Chennai and enlarge the petitioner on bail.

For Petitioner ... Mr.T.S.Srinivasan

For Respondent ... Mr.A.Gokulakrishnan
Additional Public Prosecutor



ORDER

WEB COPY

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence of imprisonment imposed on the petitioner in C.C.No.90 of 2020 dated 28.03.2023 by the learned Principal Special Judge, Special Court under EC & NDPS Act Cases, Chennai and enlarge the petitioner on bail.

2.The Trial Court, by its judgment dated 28.03.2023 in C.C. No.90 of 2020 convicted and sentenced the petitioner/A1 as follows:

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
A1	8(c) read with 20(b)(ii)(B) of NDPS Act	Five years Rigorous Imprisonment and to pay a fine of Rs.50,000/- (Rupees Fifty Thousand Only) and in default of payment of fine thereof to undergo further period of six months Rigorous Imprisonment
The period of remand already undergone by the accused is ordered to be set off under Section 428 Cr.P.C.		

3.The petitioner, who is the first accused in C.C.No.90 of 2020, aggrieved over the judgment of conviction and sentence imposed on



CRL.MP.NO.5090 OF 2023 IN CRL.A.NO.403 OF 2023

her, has filed the present Criminal Appeal along with the instant Criminal Miscellaneous Petition, seeking suspension of sentence and to enlarge her on bail.

4.The learned counsel for the petitioner submitted that the petitioner is the first accused in Crime No.224 of 2019 on the file of the respondent police for having found in illegal possession of 3.200 Kgs of Ganja. After completion of trial, the Trial Court based upon the evidence, found the petitioner/A1 guilty of the offence under Section 8(c)r/w 20(b)(ii)(B) of NDPS Act and convicted and sentenced her to undergo five years Rigorous Imprisonment and to pay a fine of Rs.50,000/- (Rupees Fifty Thousand Only) and in default of payment of fine thereof, to undergo further period of six months Rigorous Imprisonment

5.The learned counsel for the petitioner further submitted that in this case, there are many material contradictions in the prosecution evidence. In the Seizure Mahazar – Ex.P5, it has been recorded that 3.200 Kgs of Ganja has been seized along with an Auto bearing Registration No.TN05-AE-9060 and in the Seizure Mahazar – Ex.P5, the Sub-Inspector



CRL.MP.NO.5090 OF 2023 IN CRL.A.NO.403 OF 2023

of Police, G-2, Periamedu Police Station has not signed. Whereas, in the Special Report, which is marked as Ex.P14, the Auto Registration number has been mentioned as TN09-AR-9060. Even the evidence of P.W.2 and P.W.3 speak about the Auto bearing Registration No.TN09-AR-9060, whereas P.W.1 in his evidence has stated that he intercepted an Auto bearing Registration No.TN05-AE-9060. Therefore, there are some arguable points in favour of the petitioner in the Criminal Appeal. The petitioner is in judicial custody from 28.03.2023.

6.The learned Additional Public Prosecutor for the respondent objected to suspend the sentence. He has also admitted that the petitioner is now confined at Central Prison for Women, Puzhal, Chennai.

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

8.On perusal of the records, the fact reveals that the petitioner is the first accused in Crime No.224 of 2019 on the file of the respondent



police for having found in illegal possession of 3.200 Kgs of Ganja. After

completion of trial, the Trial Court found the petitioner/A1 guilty of the

offence under Section 8(c)r/w 20(b)(ii)(B) of NDPS Act and convicted

and sentenced her to undergo five years Rigorous Imprisonment and to

pay a fine of Rs.50,000/- (Rupees Fifty Thousand Only) and in default of

payment of fine thereof, to undergo further period of six months Rigorous

Imprisonment. Further, there are material contradictions in the prosecution

evidence. In the Seizure Mahazar – Ex.P5, it has been recorded that the

3.200 Kgs of Ganja has been seized along with an Auto bearing

Registration No.TN05-AE-9060 and the Sub-Inspector of Police, G-2,

Periamedu Police Station has not signed in the Seizure Mahazar. Whereas,

in the Special Report, which is marked as Ex.P14, the Auto Registration

number has been mentioned as TN09-AR-9060. Further, the evidence of

P.W.2 and P.W.3 speak about the Auto bearing Registration No.TN09-

AR-9060, whereas P.W.1 speaks about an Auto bearing Registration

No.TN05-AE-9060. After completion of trial, the Trial Court found the

petitioner guilty of the offence under Section 8(c) r/w 20(b)(ii)(B) of

NDPS Act and convicted and sentenced her to undergo five years

Rigorous Imprisonment and to pay a fine of Rs.50,000/- (Rupees Fifty



CRL.MP.NO.5090 OF 2023 IN CRL.A.NO.403 OF 2023

Thousand Only) and in default of payment of fine thereof, to undergo further period of six months Rigorous Imprisonment. Therefore, this Court is of the view that there are some arguable points in favour of the petitioner in the Criminal Appeal.

9.The petitioner has raised substantial grounds in the Criminal Appeal which require detailed appraisal. Further, the Criminal 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 petitioner is entitled to the relief of suspension of sentence and bail.

10.Accordingly, till the disposal of the Criminal Appeal, the suspension of sentence and bail are granted, on the following conditions:-

- (i) The petitioner is ordered to be released on bail on her 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 Trial Court;



WEB COPY



CRL.MP.NO.5090 OF 2023 IN CRL.A.NO.403 OF 2023

(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;

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

11.The Criminal Miscellaneous Petition is ordered accordingly.

26.04.2023

(2/2)

TK



WEB COPY

To



CRL.MP.NO.5090 OF 2023 IN CRL.A.NO.403 OF 2023

V.SIVAGNANAM, J.

TK

- 1.The Principal Special Judge
Principal Special Court under EC & NDPS Act Cases
Chennai.
- 2.The Inspector of Police
G-2, Periamedu Police Station,
Chennai.
- 3.The Superintendent
Central Prison for Women
Puzhal, Chennai.
- 4.The Public Prosecutor
High Court of Madras.

CRL.MP.NO.5090 OF 2023
IN CRL.A.NO.403 OF 2023

26.04.2023

(2/2)