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Crl.M.P.No.7245 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 18.05.2023**

CORAM

**THE HON'BLE MR. JUSTICE A.A.NAKKIRAN**

**Crl.M.P.No.7245 of 2023**

**in**

**Crl.A.No.564 of 2023**

Arun Kumar  
S/o.Suresh

... Petitioner

Vs.

The State Represented by  
The Inspector of Police,  
NIB-CID, Villupuram District.

(Crime No.36 of 2021)

... Respondent

**Prayer:** Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C., pleaded to suspended the one year Rigorous Imprisonment imposed upon the petitioner vide the Judgment pronounced on 27.04.2023 by the learned Special Court for Trial of Narcotic Drugs and Psychotropic Substance Act Cases, Villupuram in Spl.C.No.24 of 2021 pending and disposal of the accompanying the criminal appeal and enlarge the petitioner on bail.



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For Petitioner : Mr.K.Karthik  
For Respondent : Mr.S.Vinoth Kumar  
Government Advocate  
(Criminal Side)

### **ORDER**

The Criminal Miscellaneous Petition has been filed by the petitioner, seeking suspension of sentence imposed by the Special Court for Trial of Narcotic Drugs and Psychotropic Substance Act Cases, Villupuram in Spl.C.No.24 of 2021 dated 27.04.2023.

2. The conviction and sentence imposed against the petitioner is as follows:-

| <b><i>Under Section</i></b>                                                          | <b><i>Sentence</i></b>                                                                                                                                    |
|--------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8(c) read with 20(b) (ii) (B) of the Narcotic Drugs and Psychotropic Substances Act. | One year of rigorous imprisonment with a fine of Rs.5,000/- and in default thereof to further undergo rigorous imprisonment for a period of three months. |

3. Learned counsel for the petitioner submitted that the independent witness turned hostile and the Seizer Officer has not followed



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the mandatory procedures under the Act. Further, the prosecution failed to prove the alleged recovery of the material which is used in the alleged occurrence. Therefore, there are many defects as well as the holes in the prosecution. Hence, there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the petitioner has got a fair chance of succeeding in the Criminal Appeal and hence, he prayed that the sentence imposed against the petitioner may be suspended before the Trial Court.

4. Learned Government Advocate (Criminal Side) appearing for the respondent submitted that the prosecution has proved the case beyond reasonable doubts and the trial Court on finding the petitioner guilty, convicted him as stated above. Therefore, he vehemently oppose for grant of suspension of sentence before the Trial Court.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the materials on record.



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6. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner, this Court is of the view that the sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the reliefs of suspension of sentence, is granted on the following conditions:

- i. The petitioner shall execute bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only), with two sureties, each for a like sum to the satisfaction of the Special Court for Trial of Narcotic Drugs and Psychotropic Substance Act Cases, Villupuram;
- ii. The petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

7. Accordingly, this Criminal Miscellaneous Petition is ordered.

**18.05.2023**  
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Jeni/arb



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To

1. The Learned Special Court for Trial of Narcotic Drugs  
and Psychotropic Substance Act Cases,  
Villupuram.
2. The Inspector of Police,  
NIB-CID,  
Villupuram District.
3. The Public Prosecutor,  
High Court of Madras.



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**A.A.NAKKIRAN, J.**

Jeni/arb

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**18.05.2023**  
**(2/2)**