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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2023

CORAM

THE HONOURABLE Mr. JUSTICE V. SIVAGNANAM

Crl.M.P.No.7687 of 2023

in

Crl.A.No.620 of 2023

Kavidhass

... Petitioner

Vs.

State, represented by
Inspector of Police,
Vikravandi Police Station,
Villupuram District
(Cr.No.99 of 2018)

... Respondent

Criminal Miscellaneous Petition filed under Section 389 (1) of Cr.P.C., to suspend the sentence imposed in S.C.No.04 of 2018 on the file of the Special Court for trial of Narcotic Drugs and Psychotropic Substances Act Cases, Villupuram, dated 29.05.2023 and release the petitioner on bail, pending disposal of the above Criminal Appeal.

For Petitioner : Mr.V. Elangovan

For Respondent : Mr.R. Vinoth Raja, GA (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 S.C.No.4 of 2018, dated 29.05.2023 on the file of the Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases, Villupuram, pending disposal of the above appeal.

2. The trial court, by its judgment dated 29.05.2023 made in S.C.No.4 of 2018 ordered as follows;

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.8(c) r/w.20(b)(ii)(B) of NDPS Act	To undergo RI for 3 years and to pay a fine of Rs.10,000/-, in default in payment of fine, to undergo RI for further period of 3 months.

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

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 charge against the petitioner is that he was found in illegal possession of 1.650 kgs. of Ganja, which is an intermediate quantity. The petitioner is not having any previous antecedents of criminal case involving similar type of offence. He further submitted that petitioner has been in judicial custody from 29.05.2023 and fine amount imposed by the trial court has already been paid. Thus, he prayed for granting suspension of sentence imposed on him by the trial court till the disposal of the appeal.

5. The learned Govt. Advocate (crl.side) appearing for the respondent objected for suspending the sentence stating that the petitioner is found in illegal possession of 1.650 kgs. of Ganja. However, he fairly conceded that the quantity of Ganja possessed by the petitioner is an intermediate quantity and the petitioner has no previous case involving NDPS offence and fine amount sentenced by the trial court was paid by him.

6. Considering the fact that the petitioner was found in possession of intermediate quantity of Ganja and he is not having any previous bad antecedents of similar type of offence and fine amount was already paid, this Court is inclined to grant suspension of sentence imposed on the petitioner till the disposal of the criminal appeal.



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7. 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 Special Court 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;

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

21.06.2023

msr



To

1. The Special Judge,
Special Court for trial of Narcotic Drugs
and Psychotropic Substances Act Cases, Villupuram.
2. The Inspector of Police,
Vikravandi Police Station,
Villupuram District
3. The Public Prosecutor, High Court, Madras.
4. The Superintendent, Central Prison,
Cuddalore.



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V.SIVAGNANAM, J.

msr

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