



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Eighth day of February Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.322 of 2023
IN
CRL A(MD) No.621 of 2022

KANNAN

... PETITIONER/APELLANT/
SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
CUMBUM NORTH POLICE STATION,
THENI.
(CRIME NO.54 OF 2015)

... RESPONDENT/RESPONDENT/
COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed on the petitioner / appellant / sole accused namely Kannan, S/o.Ganesan passed by the Learned II Additional Special Court for NDPS Act Cases, Madurai in C.C No.113 of 2015 dated 19.09.2022 and enlarge the petitioner on bail, pending disposal of the Criminal Appeal.

PRAYER IN CRL A(MD) No.621/2022:

Pleased to call for the records in C.C.No.113 of 2015 dated 19.09.2022 on the file of the Learned II Additional Special Court for NDPS Act Cases, Madurai and set aside the same.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S. JEGADEESH PANDIAN.M., Advocate for the petitioner and of Mr.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Additional District Judge, II Additional Special Court for NDPS Act Cases, Madurai, dated 19.09.2022, in C.C.No.113 of 2015 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.

2.The learned counsel for the petitioner submitted that the petitioner, who is the accused in this case, has been found guilty and convicted by the learned District judge, for the offence under



Section 8(c) r/w 20(b)(ii)(B) of NDPS Act and sentenced to undergo 5 years rigorous imprisonment and to pay a fine of Rs.50,000/- in default to undergo simple imprisonment for a further period of 6 months. Set of under Section 428 Cr.P.C. was also ordered.

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3.The case of the prosecution is that on 24.01.2015 at about 7.45 p.m., on Cumbum-Kombai Road, near Nagammal Kovil, the accused was found in illegal possession of 12 Kgs. of Ganja, in his two wheeler bearing registration No.TN 60 Z 7648. Over the above said occurrence, the case was registered and final report was also filed before the trial court after completing the investigation process. Before the trial Court, on the side of the prosecution 3 witnesses have been examined, 11 documents were marked, apart from 3 material objects. On the side of the accused none was examined and no document was marked.

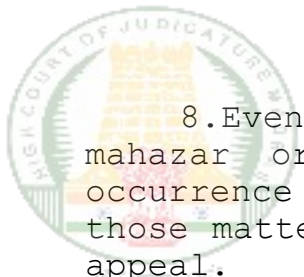
4.At the conclusion of the trial, the trial Court came to the finding that the charge that was framed against the accused person was proved beyond all reasonable doubts. On that basis, the accused was found guilty and convicted and sentenced above.

5.Challenging the above said conviction and sentence, appeal has been preferred by the petitioner. Pending appeal, earlier the petitioner has filed a petition seeking suspension of sentence in Crl.M.P.(MD).No.11994 of 2022. That petition was dismissed by this Court on 01.11.2022 by making the following observation:

"7.Further, perusal of Judgment shows that the petitioner was the owner of the vehicle bearing registration No.TN 60 Z 7648. All the points have been taken into account by the trial Court. Whether the prosecution suffers from any technical defect, is a matter of consideration at the time of appeal. Since the Judgment is of recent origin, there is every likelihood of committing very same offence, if the sentence of the petitioner is suspended. The petitioner can revive this petition, after some time."

6.Now, after the above said dismissal, this petition has been filed. At the time of hearing, the learned counsel for the petitioner submitted that he has already paid the fine amount and also produced the receipt.

7.The learned Additional Public Prosecutor would submit that the petitioner is not having any bad antecedents and not involved in similar case.



8. Even though the counsel for the petitioner submitted 10 mahazar or sketch were prepared with regard to the place of occurrence and recovery of contraband, etc., I am not going into those matters by this time. It is a matter for consideration in the appeal.

9. Considering the period of incarceration and also considering the facts that the appeal cannot be taken in the near future and may be taken up for hearing after preparing the typed set of papers, this Court is inclined to grant suspension of sentence to the petitioner.

10. Accordingly, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Additional District Judge, II Additional Special Court for NDPS Act Cases, Madurai and on further condition that the petitioner shall appear before the said Court once in a week at 10.30 a.m. pending appeal.

sd/-

08/02/2023

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09/02/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1 THE ADDITIONAL DISTRICT JUDGE,
II ADDITIONAL SPECIAL COURT FOR NDPS ACT CASES, MADURAI.

2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
CUMBUM NORTH POLICE STATION, THENI.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S. JEGADEESH PANDIAN.M. Advocate SR.No.2016 (I)
Date:08/02/2023.

ORDER IN

CRL MP(MD) No.322 of 2023

IN CRL A(MD) No.621 of 2022

Date :08/02/2023

SA/VR/SAR. /09.02.2023/3P/6C

<https://www.mhc.tn.gov.in/judis>