



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

Thursday, the Thirteenth day of April Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.4622 of 2023
in
CRL A(MD)No. 216 of 2023

MOHAMMED HANIFA ...APPELLANT/SOLE ACCUSED
NOW CONFINED AT CENTRAL PRISON,
TRICHY

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
GANDHI MARKET POLICE STATION,
TRICHY CITY.
CRIME NO. 490/2021

... RESPONDENT/COMPLAINANT

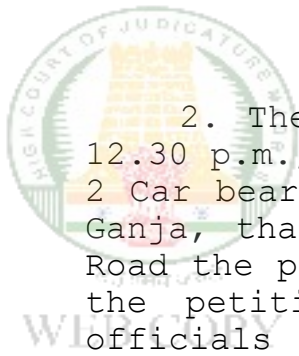
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed against the petitioner in C.C No. 92 of 2021 dated 20.01.2023 passed by the Learned Additional District Sessions Judge / Presiding Officer Special Court for EC and NDPS Act cases, Pudukkottai and enlarge the petitioner on bail pending disposal of the above appeal.

Prayer in Crl A(MD)No.216 OF 2023:

Pleased to call for the records in C.C.NO.92 of 2021 dated 28.02.2023 passed by the Additional District Sessions Judge/Presiding Officer Special Court for E.C.and NDPS Act cases Pudukkottai and to 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.KARUPPASAMY PANDIYAN G, Advocate for the petitioner and of MR.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Additional District and Sessions Judge / Presiding Officer, Special Court for EC and NDPS Act Cases, Pudukkottai, in C.C.No.92 of 2021, dated 28.02.2023, till the disposal of this Criminal Appeal.



2. The case of the prosecution is that on 26.07.2021 at 12.30 p.m., the petitioner/sole accused was driving a TATA INDICA V-2 Car bearing Registration No.TN-52-T-6484 by trafficking 21 kgs of Ganja, that when near Pitchai Nagar Service Road in Chennai Bypass Road the police officials asked the petitioner to stop the car, but the petitioner did not stop the car and therefore the police officials chased the said car and caught hold the petitioner and tried to enquire him, but the petitioner prevented the police officials from discharging their duties and attacked the police officials and that therefore FIR came to be registered in Crime No.490 of 2021 for the offences under Sections 324, 353 and 307 IPC and Sections 8(c) r/w 20(b)(ii)(C) and 25 of NDPS Act.

3. The respondent police, after completing the investigation, has filed the final report and the case was taken on file in C.C.No.92 of 2021 and the same was pending on the file of the learned Additional District and Sessions Judge / Presiding Officer, Special Court for EC and NDPS Act Cases, Pudukkottai

4. During trial, the prosecution has examined 11 witnesses as P.W.1 to P.W.11, exhibited 11 documents as Ex.P.1 to Ex.P.11 and marked 3 material objects as M.O.I to M.O.III. The accused has adduced neither oral nor documentary evidence.

5. The learned Sessions Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 28.02.2023 finding the petitioner guilty for the offences under Sections 353 and 326 IPC and sentenced him to undergo 2 years Rigorous Imprisonment for the offence under Section 353 IPC and to undergo 4 years Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 1 month Simple Imprisonment for the offence under Section 326 IPC and that the above sentences were ordered to be run concurrently. Challenging the above said conviction and sentence, the accused has preferred the present Criminal Appeal along with the above miscellaneous petition for suspension of sentence.

6. The learned counsel appearing for the petitioner would submit that the trial Court acquitted the petitioner for the offences under Sections 8(c) r/w 20(b)(ii)(C) and 25 of NDPS Act.

7. The learned counsel appearing for the petitioner would further submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner has already paid fine amount.

8. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to



9. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

10. The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

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

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Additional District Sessions Judge / Presiding Officer, Special Court for EC and NDPS Act Cases, Pudukkottai;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the concerned Court on all working days at 10.30 a.m., for a period of one month and thereafter appear before the concerned Court once in a month at 10.30 a.m., until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-

13/04/2023

/ TRUE COPY /

13/04/2023

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

CSM
TO

1 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE/ PRESIDING OFFICER,
SPECIAL COURT FOR EC AND NDPS ACT CASES
PUDUKKOTTAI.



2 THE INSPECTOR OF POLICE
GANDHI MARKET POLICE STATION, TRICHY CITY.

3 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY.

WEB COPY

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

+1. CC to MR.G.KARUPPASAMY PANDIYAN, Advocate SR.No.5933(I)
ORDER
IN
CRL MP(MD) No.4622 of 2023
in
CRL A(MD)No. 216 of 2023
Date :13/04/2023

PKP/VR/SAR- /13.04.2023/ **4P/6C**