



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

Tuesday, the Eleventh day of April Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.5489 of 2023
IN
CRL A(MD) No.846 of 2022

GOPINATH

... PETITIONER/APPELLANT

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE,
THANJAVUR TOWN WEST POLICE STATION,
THANJAVUR DISTRICT.
(CRIME NO.110/2020)

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioner on bail by suspending the sentence imposed by the learned Additional District Judge / Presiding Officer, Special Court under Essential Commodities Act, Thanjavur District in C.C No. 29 of 2021 vide his judgment dt 18.11.22 pending the disposal of the main criminal appeal.

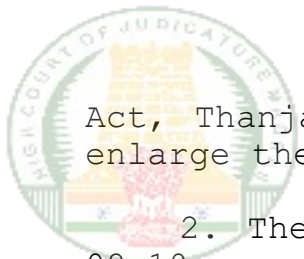
PRAYER IN CRL A(MD) No.846 of 2022:-

To call for the entire records pertaining to the judgment rendered by the learned Additional District Judge/Presiding Officer, Special Court under Essential Commodities Act, Thanjavur in C.C.No.29 of 2021 vide order dated 18.11.2022 and set aside the same and consequently acquit the appellant.

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.R.L.DILIPAN PANDIAN, Advocate for the petitioner and of MR.R.SIVA KUMAR, Government Advocate (Crl.Side) on behalf of the Respondent the court made the following order:-

Reserved on : 05.04.2023
Delivered on : 11.04.2023

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed by the learned Additional District Judge / Presiding Officer, Special Court under Essential Commodities



Act, Thanjavur District in C.C.No.29 of 2021, dated 18.11.2022 and enlarge the petitioner on bail pending disposal of the appeal.

2. The case of the prosecution is that on 28.02.2020 at about 08.10 a.m., the respondent Police, on receipt of secret information, went to Thanjavur Mela Alangam near Kottai Valaivu and intercepted the accused and found him with possessions of 1.200 kgs of Ganja and that on the basis of the said occurrence, FIR came to be registered in Crime No.110 of 2020 for the alleged offences under Section 8(c) r/w Section 20(b)(ii)(B) of NDPS Act. The respondent Police, after completing the investigation has laid the final report and the case was taken on file in C.C.No.29 of 2021 and the same was pending on the file of the I Additional District and Sessions Judge/Presiding Officer, Special Court under the Essential Commodities Act, Thanjavur.

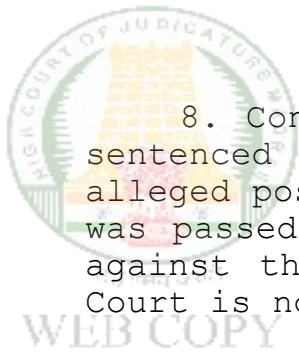
3. During trial, the prosecution has examined 6 witnesses as P.W.1 to P.W.6 and exhibited 11 documents as Ex.P.1 to Ex.P.11 and three material objects as M.O.1 to M.O.3. The accused has adduced neither oral nor documentary evidence.

4. The learned Sessions Judge, upon considering the evidence adduced and on hearing the arguments of both the sides, has passed the impugned judgment, dated 18.11.2022, convicting the petitioner/accused for the offence under Section 8(c) r/w Section 20(b)(ii)(B) of NDPS Act and sentenced him to undergo four years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo one year simple imprisonment. Aggrieved by the judgment of conviction and sentence, the accused has preferred the present appeal.

5. No doubt, the petitioner's earlier application for similar relief in CrI.M.P.(MD)No.15.04 of 2022 was ordered to be dismissed, vide order dated 15.02.2023.

6. The learned counsel for the petitioner would submit that the earlier application was dismissed mainly on the ground that the petitioner is having 10 previous cases not similar in nature and that the petitioner is not having any other previous cases under NDPS Act.

7. The learned Government Advocate (Criminal Side) appearing for the State would submit that the petitioner as of now is having six previous cases, out of which, five cases are pending for trial and one case under investigation; that the petitioner is not having any other case under NDPS Act except the case on hand; that the petitioner was already charged with the offence under the provision of TNPPDL Act, 399 IPC and other IPC offences. He would further submit that the petitioner has already been convicted under Section 229(A) IPC.



8. Considering the facts that the petitioner was convicted and sentenced to undergo four years rigorous imprisonment for the alleged possession of 1.200 kgs of Ganja, that the impugned judgment was passed only on 18.11.2022 and taking note of the cases pending against the petitioner and also the period of incarceration, this Court is not inclined to suspend the sentence at this point of time.

9. In the result, the Criminal Miscellaneous Petition is dismissed.

sd/-
11/04/2023

/ TRUE COPY /

/04/2023

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

DAS

TO

- 1 ADDITIONAL DISTRICT JUDGE / PRESIDING OFFICER,
SPECIAL COURT UNDER ESSENTIAL COMMODITIES ACT,
THANJAVUR DISTRICT.
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
- 3 THE INSPECTOR OF POLICE
THANJAVUR TOWN WEST POLICE STATION,
THANJAVUR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.5489 of 2023
IN
CRL A(MD) No.846 of 2022
Date :11/04/2023

NA/SSS/SAR-4/19.04.2023/3P/5C