



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

Friday, the Ninth day of June Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

Crl.M.P(MD)No.6148 of 2023  
in  
Crl.A.(MD)No.307 of 2023

NAGAMMAL

... PETITIONER/APPELLANT/  
ACCUSED NO.2

Vs

THE STATE REP.BY,  
THE INSPECTOR OF POLICE  
KARIMEDU POLICE STATION,  
MADURAI DISTRICT.  
CR.NO.1466/2020

... 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 accused No.2 namely Nagammal W/o.Rajangam passed the Learned II Additional Special Court for NDPS Act Cases Madurai in C.C.No.16/2021 dt 28.03.2023 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

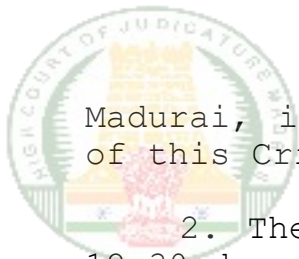
Prayer in Crl.A.(MD)No.307 of 2023:

To call for the records in C.C.No.16 of 2021 dated 28.03.2023 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 M/S.SS.MADHAVAN, Government Advocate(Crl.side) on behalf of the Respondent, the court made the following order:-

|               |            |
|---------------|------------|
| RESERVED ON   | 02.06.2023 |
| PRONOUNCED ON | 09.06.2023 |

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Additional District Judge, II Additional Special Court for NDPS Act Cases,



Madurai, in C.C.No.16 of 2021, dated 28.03.2023, till the date of this Criminal Appeal.

2. The case of the prosecution is that on 05.10.2020 at about 12.30 hours, the first accused and the petitioner/second accused were found in possession of 11 kgs of Ganja being transported in TVS Scooty Pink Colour vehicle bearing Registration No.TN-58-BC-9390 and were having the sale consideration of Rs.7,300/-, that the accused 3 and 5 were found in possession of 11 kgs of Ganja being transported in Honda Activa Black Colour Vehicle bearing Registration No.TN-58-AP-6669 and that the fourth accused was piloting the other accused in Hero Honda Splendor Pro Black Colour vehicle bearing Registration No.TN-58-AC-4767 on Amma Bridge Roundana, Arappalayam, Madurai and on that basis, FIR came to be registered in Crime No.1466 of 2020 against 5 persons including the petitioner herein.

3. The respondent police, after completing the investigation, has filed the final report for the offences under Sections 8(c) r/w 20(b)(ii)(C), 25 and 29(1) of NDPS Act and the case was taken on file in C.C.No.16 of 2021 on the file of the II Additional Special Court for NDPS Act Cases, Madurai.

4. During trial, the prosecution has examined 4 witnesses as P.W.1 to P.W.4, exhibited 15 documents as Ex.P.1 to Ex.P.15 and marked 6 material objects as M.O.1 to M.O.6. The defence have adduced neither oral nor documentary evidence.

5. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the impugned judgment dated 28.03.2023 convicting the petitioner for the offence under Section 8(c) r/w 20(b)(ii)(B) of NDPS Act and sentenced her to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.40,000/-, in default, to undergo 6 months Simple Imprisonment. Aggrieved by the said judgment of conviction and sentence, the second accused has come forward with the present Criminal Appeal along with the above application for suspension of sentence.

6. The learned counsel appearing for the petitioner would submit that the respondent has not followed the procedures established under NDPS Act and no clinching material was produced to prove the manner in which the seizure has been effected, that there is no corroboration between the evidence of P.W.1 and other witnesses and that the delay in lodging the complaint, registration of FIR and reaching to Judicial Magistrate after long delay was not at all properly explained by the trial Court and there is no plausible reason given by the trial Court for accepting the delay.

7. The learned counsel appearing for the petitioner would further submit that the petitioner is aged about 70 years and she is suffering from Kidney ailments during the trial period and



under went treatment in the Government Rajaji Hospital, that her health condition is now deteriorated and that she is in jail from 06.10.2020.

8. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the contradictions that were pointed by the defence would go to show that they are trivial and not material and that would affect the root of the prosecution case, that all the grounds raised by the petitioner are vague and unsustainable, that the petitioner being the mother of the first accused was very much travelling in the same two wheeler which stands in the name of the daughter of the first accused and that the trial Court, after considering the evidence available on record in proper perspective, has rightly convicted the petitioner.

9. The learned counsel appearing for the petitioner would further submit that the contraband seized was not of commercial quantity, that there were two recoveries one from the first accused and the petitioner and the other from the other accused and that the petitioner had already undergone nearly 3 years of imprisonment.

10. Considering the above facts and circumstances and also the nature and gravity of the offence allegedly proved against the petitioner and also taking note of the fact that the impugned judgment was pronounced only on 28.03.2023 and the period of incarceration, this Court is not inclined to suspend the sentence imposed on the petitioner.

11. In the result, this Criminal Miscellaneous Petition is dismissed.

sd/-  
09/06/2023

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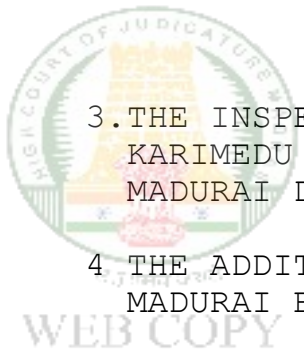
Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

csm

TO

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

2.THE OFFICER IN CHARGE,  
SPECIAL PRISON FOR WOMEN,  
MADURAI.



3.THE INSPECTOR OF POLICE  
KARIMEDU POLICE STATION,  
MADURAI DISTRICT.

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

ORDER  
IN  
Crl.M.P (MD) No.6148 of 2023  
in  
Crl.A. (MD) No.307 of 2023  
Date :09/06/2023

RK/BUC/SAR- (16/06/2023) 4P/5C