



Crl.M.P.No.2083 of 2023
in Crl.A.No.143 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2024

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

**Crl.M.P.No.2083 of 2023
in
Crl.A.No.143 of 2023**

1. Tamil @ Tamilarasan
2. Mani @ Marimuthu

... Petitioners

Vs.

State Represented by:
Inspector of Police,
J-11, Kannagi Nagar Police Station,
Chennai.

Cr.No.290 of 2018

... Respondent

Prayer : Criminal Miscellaneous Petition filed under Sections 389(2) and 439 of Criminal Procedure Code, praying to suspend the sentence imposed by the Principal Special Court under EC & NDPS Act, Chennai in C.C.No.151 of 2018 and to enlarge them on bail pending disposal of the criminal appeal.

For Petitioners : Mr.S.Senthilvel

For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor

ORDER



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This miscellaneous petition is filed to suspend the sentence imposed on the petitioners by the Principal Special Court under EC & NDPS Act, Chennai in C.C.No.151 of 2018 and to enlarge the petitioners on bail, pending disposal of the above criminal appeal.

2. Petitioners were convicted for the offence under Section 8(c) r/w. 20(b) (ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act') and was sentenced to undergo five years rigorous imprisonment and to pay a fine of Rs.50,000/-, in default to undergo six months rigorous imprisonment. Aggrieved by the same, the petitioners preferred the present appeal along with a petition seeking suspension of sentence.

3. Learned counsel for the petitioners submitted that, they have been falsely implicated in this case. He further submitted that, there are lot of material contradictions in the evidence of the prosecution and the prosecution evidence is also highly unbelievable and petitioners are now confined in Central Prison, Puzhal-1, Chennai for more than 2 years. He further submits that the petitioners are ready to abide any condition imposed by this Court. Accordingly, he prayed for appropriate orders.



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4. The learned Additional Public Prosecutor appearing for the respondent submits that insofar as A1 / first petitioner is concerned there is one previous case which is similar in nature pending against him and insofar as A2/ second petitioner is concerned, no previous case is pending against him.

5. Having regard to the fact that there are arguable points involved in the criminal appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also considering the period of incarceration, I am of the considered opinion that the second petitioner / A2 is entitled for the relief of suspension of sentence. However, insofar as the first petitioner is concerned, this Court is not inclined to grant the relief of suspension of sentence, as there is one previous case which is similar in nature pending against him. Hence, the prayer sought for by the first petitioner cannot be acceded to.

6. Accordingly, the substantive sentence of imprisonment alone is suspended for the second petitioner and he is directed to be enlarged on bail, on condition that the second petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each



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for a like sum to the satisfaction of the Principal Special Court under EC & NDPS Act, Chennai and on further condition that the second petitioner shall appear before the trial Court at 10.30 a.m. on the first working day of every English Calendar month, pending appeal.

7. It is made clear that, if the second petitioner indulges in similar offence in the future, the suspension of substantive sentence alone granted today will automatically stand dismissed without any further reference to this Court.

8. Accordingly this criminal miscellaneous petition is ordered insofar as the second petitioner is concerned and dismissed insofar as the first petitioner is concerned.

08.07.2024
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To

1. Principal Special Court under EC & NDPS Act, Chennai
2. Central Prison, Puzhal -1, Chennai.
3. Inspector of Police,
J-11, Kannagi Nagar Police Station,
Chennai.



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4.The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.



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M.DHANDAPANI,J.

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