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Crl.MP.No.5162 of 2024

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in

Crl.A.No.336 of 2024

M.DHANDAPANI, J.

This Criminal Miscellaneous petition has been filed under Section 389(1) of Cr.P.C. seeking to suspend the sentence of imprisonment imposed on the petitioner in CC.No.251 of 2021 on the file of the Special Judge, I Additional Special Court for Exclusive trial of cases under NDPS Act, Chennai, vide judgment dated 11.01.2024 and to enlarge the petitioner on bail, pending disposal of the above criminal appeal.

2. The petitioner/appellant was convicted for the offence under Section 8(c) r/w 20(b)(ii)(C) of NDPS Act and was sentenced to undergo rigorous imprisonment for ten years and was ordered to pay a fine of Rs.1,00,000/- and in default to undergo rigorous imprisonment for a further period of six months, vide order of conviction dated 11.01.2024 made in CC.No.251 of 2021. Aggrieved by the same, the petitioner has filed the above appeal along with this petition seeking suspension of sentence.



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3. Learned counsel for the petitioner submitted that, the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He further submitted that, there are lot of material contradictions in the evidence of the prosecution and the prosecution evidence is also highly unbelievable. Further, the petitioner is under incarceration for more than seven months and he is now confined in Central Jail Puzhal, Chennai. Accordingly, he prays for suspension of sentence.

4. Learned Additional Government Pleader appearing for the respondent submitted that the contraband i.e, Ganja seized from the petitioner and other accused persons weighs about 25 Kgs and it is a commercial quantity as envisaged u/s.37 of the Narcotic Drugs and Psychotropic Substances Act, 1985. She further submitted that, there are six previous cases pending against the petitioner and the petitioner may indulge in such offences if he comes out. Hence, she vehemently opposed to grant of suspension of sentence.



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5. A perusal of the materials placed on record reveals that there are six previous cases pending against the petitioner in which, one is of similar in nature and whenever suspension of sentence is sought for, this Court has to be very circumspect in granting suspension. Suspension has to be granted only if a prima facie case is made out, where contradictions, which are crucial in nature are pointed out. In the case on hand, such crucial contradictions have not been pointed out and in such view of the matter, suspending the sentence, as a matter of course, will set a bad precedent in the society. Therefore, this Court is not inclined to accede to the prayer of the petitioner/appellant seeking suspension of sentence.

6. Hence, this Court is not inclined to suspend the sentence of imprisonment imposed on the petitioner in CC.No.251 of 2021 dated 11.01.2024 and accordingly, this Criminal Miscellaneous petition stands dismissed.

01.08.2024

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