



Crl.MP.No.5909 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 25.06.2024

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

Crl.MP.No.5909 of 2023

in

Crl.A.No.478 of 2023

Selvakumar

...Petitioner

Vs.

The Deputy Superintendent of Police,
NIB CID,
Chennai.

...Respondent

Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C., to suspend the sentence passed in CC.No.51 of 2018 order dated 15.10.2019 on the file of the Special Judge I, Addl. Special Court for exclusive trial of cases under NDPS Act, Chennai pending disposal of the above appeal.

For Petitioner : Mr.T.S.Sasi Kumar

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



Crl.MP.No.5909 of 2023

ORDER

WEB COPY This Criminal Miscellaneous petition has been filed to suspend the sentence of imprisonment imposed in CC.No.51/2018 dated 15.10.2019 on the file of the Special Judge I, Additional Special Court for exclusive trial of cases under NDPS Act, Chennai and to enlarge the petitioner on bail.

2. The petitioner was convicted for the offence under Sections 8(c) r/w 29(1) and 8(c) r/w 20(b)(ii)(c) of the NDPS Act and in respect of conviction under Section 8(c) r/w 29(1) of the NDPS Act, the petitioner was sentenced to undergo 10 years of rigorous imprisonment and was ordered to pay a fine of Rs.1,00,000/- and in default of payment of fine, to undergo rigorous imprisonment for another one year and in respect of the conviction under Section 8(c) r/w 20(b)(ii)(c) of the NDPS Act, he was sentenced to undergo 10 years of rigorous imprisonment and was ordered to pay a fine of Rs.1,00,000/- and in default of payment of fine, to undergo rigorous imprisonment for another one year, vide order dated 15.10.2019 made in CC.No.51 of 2018. Aggrieved by the same, the above appeal has been filed along with this petition seeking suspension of sentence.



Crl.MP.No.5909 of 2023

3. Learned counsel for the petitioner submitted that, the petitioner is not a habitual offender and there is no previous case against him. 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 petitioner is now confined in Central Prison, Salem for about 6 ½ years. Accordingly, he prayed for appropriate orders.

4. Learned Additional Public Prosecutor appearing for the respondent submitted that admittedly, there is no previous case pending against the petitioner, however, the seized quantity is a commercial quantity. Hence, she vehemently opposed for suspension of sentence imposed on the petitioner.

5. Having regard to the fact that there are arguable points involved in the 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 petitioner is entitled for the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is



Crl.MP.No.5909 of 2023

suspended and the petitioner is directed to be enlarged on bail, on condition that the petitioner shall appear and execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the Special Judge I, Additional Special Court for exclusive trial of cases under NDPS Act, Chennai and on further condition that the petitioner shall appear before the respondent police on every Monday at 10.30 am, pending appeal.

7. Further, it is made clear that, if the 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. This criminal miscellaneous petition is ordered accordingly.

25.06.2024

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Crl.MP.No.5909 of 2023

To
WEB COPY

1. The Special Judge I,
Additional Special Court for exclusive trial of cases under NDPS Act,
Chennai.
2. The Central Prison,
Salem.
3. The Deputy Superintendent of Police,
NIB CID,
Chennai.
4. The Public Prosecutor,
High Court of Madras.



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Crl.MP.No.5909 of 2023

M.DHANDAPANI, J.

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