



Crl.A.No.524 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.06.2024

CORAM:

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

Crl.MP.No.6427 of 2023

in

Crl.A.No.524 of 2023

1. Pawan Kumar

2. Omveer

...Petitioners

Vs.

State rep. By
The Inspector of Police,
NIB CID,
Kanchipuram.

...Respondent

Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C., to suspend the sentence passed in CC.No.175 of 2019 order dated 20.04.2023 on the file of the Court of Principal Special Court under EC & NDPS Act, Chennai pending disposal of the above appeal and enlarge the petitioners on bail.

For Petitioners : Mr.T.S.Sasi Kumar

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



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ORDER

This Criminal Miscellaneous petition has been filed seeking to suspend the sentence of imprisonment imposed in CC.No.175 of 2019 dated 20.04.2023 on the file of the Principal Special Court under EC & NDPS Act, Chennai and enlarge the petitioners on bail.

2. The petitioners were convicted for the offence under Sections 8(c) r/w 20(b)(ii)(C) of the NDPS Act and were sentenced to undergo 12 years of rigorous imprisonment and were ordered to pay a fine of Rs.1,20,000/- each and in default of payment of fine, to undergo rigorous imprisonment for another six months, and the petitioners were also convicted for the offence under Section 8(c) r/w 29(1) of the NDPS Act and were sentenced to undergo 5 years of rigorous imprisonment and were ordered to pay a fine of Rs.50,000/- each and in default of payment of fine, to undergo rigorous imprisonment for another six months, vide order dated 20.04.2023 made in CC.No.175 of 2019. Aggrieved by the same, the above appeal has been filed along with this petition seeking suspension of sentence.



3. Learned counsel for the petitioners submitted that, the petitioners are not habitual offenders and there is no previous case against them. 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, Chennai for more than 5 years and have undergone almost 50% of the sentence imposed on them. Accordingly, he prayed for appropriate orders.

4. Learned Additional Public Prosecutor appearing for the respondent submitted that, the seized quantity is a commercial quantity. Hence, she vehemently opposed for suspension of sentence imposed on the petitioners.

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 petitioners are entitled for the relief of suspension of sentence.



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6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners are directed to be enlarged on bail, on condition that the petitioners shall appear and execute a bond for a sum of Rs.10,000/- **each** (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the Principal Special Court under EC & NDPS Act, Chennai and on further condition that the petitioners shall appear before the trial Court twice in a week i.e., on Monday and Friday of every week at 10.30 am, pending appeal.

7. Further, it is made clear that, if the petitioners indulge 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.

14.06.2024

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To

1. The Principal Special Court under EC & NDPS Act,
Chennai.
2. The Central Prison,
Puzhal, Chennai.
3. The Inspector of Police,
NIB CID,
Kanchipuram.
4. The Public Prosecutor,
High Court of Madras.



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M.DHANDAPANI, J.

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