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*Crl.M.P.No.11126 of 2024
in Crl.A.No.1013 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.11126 of 2024

in

Crl.A.No.1013 of 2024

Vijaya

...

Petitioners / Appellant

Vs.

State rep.by the Inspector of Police
Mailam Police Station,
Villupuram District.
(Cr.No.432 of 2022)

...

Respondent /Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389(1) or Cr.P.C. praying to suspend the sentence of imprisonment imposed on the petitioner/appellant by the Special Court for Narcotic Drugs and Psychotropic Substances Act at Villupuram in Spl.S.C.No.5 of 2023 by way of judgment dated 28.05.2024 and enlarge the petitioner on bail, pending disposal of the Criminal Appeal.

For Petitioner : Mr.S.Deepika

For Respondent : Dr.C.E.Pratap,
Govt.Advocate (Crl.side)



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ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed on the petitioner/appellant by the Special Court for Narcotic Drugs and Psychotropic Substances Act at Villupuram in Spl.S.C.No.5 of 2023 by way of judgment dated 28.05.2024 and enlarge the petitioner on bail, pending disposal of the Criminal Appeal.

2. The case of the prosecution is that, on information, the respondent conducted a search and found that the petitioner was in possession of 2 kgs. of ganja and also in possession of 8 kgs. of ganja at her residence and that the contraband was seized under cover of mahazar in the presence of witnesses.

3. The petitioner/Accused in Spl.S.C.No.5 of 2023 was convicted by the Trial Court by judgment dated 28.05.2024 by the learned Special District Court for the cases under Narcotic Drugs and Psychotropic Substances Act, Villupuram and sentenced to undergo 7 years rigorous imprisonment and to pay a fine of Rs.1,00,000/- under Section 20(b) (ii)(B) of Narcotic Drugs and Psychotropic Substances Act, 1985, in default to undergo two years Simple Imprisonment. Aggrieved by the same, the petitioner/Accused filed



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Crl.A.No.1013 of 2024 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The learned counsel for the petitioner would submit that the respondent had violated the mandatory provisions under Section 42 & 50 of the NDPS Act and that there are several arguable points in the above appeal which requires consideration and prayed for suspension of sentence.

5. The learned Government Advocate (crl.side) appearing for the respondent, per contra, submitted that though there are three previous cases filed against the petitioner in the year 2010 & 2011, all the cases were referred as “mistake of fact” and as on date, there are no cases against the petitioner.

6. Heard the learned counsel for the petitioner as well as learned Government Advocate (crl.side) appearing for the respondent and perused the records.



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7. Considering the submissions made on either side, the period of incarceration and that there are arguable points in the above appeal, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

8. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioner is suspended and the petitioner is ordered to be released on bail on the following conditions :

- (i) The petitioner shall execute a bond for a sum of Rs.10,000/- each, with two sureties, each for a like sum to the satisfaction of the learned Special Court for Narcotic Drugs and Psychotropic Substances Act at Villupuram ;
- (ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and
- (iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on



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any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

20.11.2024

rgr

Issue order copy by 22.11.2024
Upload the order copy forthwith.

To

- 1.The Special Court for Narcotic Drugs and Psychotropic Substances Act at Villupuram
2. The Superintendent,
Special Prison for Women, Vellore.
- 3.The Inspector of Police
Mailam Police Station,
Villupuram District.
- 4.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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