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CrI.M.P.No.12407 of 2024
in CrI.A.No.547 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.M.P.No.12407 of 2024
in CrI.A.No.547 of 2024

A.Aadhil Mon

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
M-4 Redhills Police Station,
Chennai.
(Crime No.3794 of 2020)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C./430(1) of BNSS, to suspend the sentence imposed on the petitioner by the learned Special Judge, I Additional Special Court for Exclusive Trial Cases under NDPS Act, Chennai in Calendar Case No.33 of 2021 by judgment dated 17.04.2023 convicting the petitioner for the alleged offence under Section 8(c) r/w. Section 20(b)(ii)(C) of the NDPS Act and sentencing him to undergo ten year rigorous imprisonment and to pay a fine of Rs.1,00,000/-, in default, to undergo six months rigorous imprisonment, pending disposal of the above appeal.



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For Petitioner : Mr.N.Vijayaraj
For Respondent : Dr.C.E.Pratap
Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed in the judgment, dated 17.04.2023 in C.C.No.33 of 2021 passed by the learned Special Judge, I Additional Special Court for Exclusive Trial Cases under NDPS Act, Chennai.

2.It is the case of the prosecution is that on 21.08.2020 at about 4.15 hours when the Sub-Inspector of Police attached to the respondent was on duty, he received a secret information and on the basis of secret information, he went with the Police team and intercepted the petitioner along with A2 who came in a car and on enquiry, they found that the petitioner and A2 were in possession of 4kgs of liquid Hashish.

3.The petitioner was convicted for offence under Section 8(c) r/w.



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Section 20(b)(ii)(C) of the NDPS Act and sentenced him to undergo ten years rigorous imprisonment and to pay a fine of Rs.1,00,000/-, in default, to undergo six months rigorous imprisonment

4.The learned counsel appearing for the petitioner would submit that there are several infirmities in the prosecution case which has to be examined in the appeal; that the petitioner is a B.E. Graduate and he is in custody from 21.08.2020 and the sentence imposed on the petitioner is ten years; that though earlier bail application was dismissed on 15.04.2024, considering the efflux of time, the sentence may be suspended.

5.The learned Government Advocate (Crl. Side), per contra, would submit that this Court by order dated 15.04.2024 considered the bail petition of the petitioner and A2, after elaborately discussing the facts dismissed the bail application of the petitioner and granted bail for A2 and since the order passed by this Court was on merits, the petitioner for suspension of sentence cannot be considered.



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6.The petitioner has been in custody for nearly four years and three months since the date of his arrest. The sentence imposed on the petitioner is ten years. The petitioner is a Graduate. Admittedly there are no other cases. Hence, considering the period of incarceration, without going into the merits and the contentions, since he has almost completed half the sentence, this Court is inclined to grant the relief of suspension of sentence.

7.Accordingly, this criminal miscellaneous petition stands allowed and the sentence imposed on the petitioner, is suspended till the disposal of the criminal appeal and he is ordered to be released on bail on the following conditions:

(i)The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only), with two sureties, each for a like sum to the satisfaction of the learned Special Judge, I Additional Special Court for Exclusive Trial Cases under NDPS Act, Chennai;

(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



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their identity;

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(iii)The petitioner shall appear before the Trial Court twice a month at 10.30 a.m until further orders and if he is not able to appear before the trial Court on 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.

21.11.2024

cse

To

- 1.The Special Judge,
I Additional Special Court for Exclusive Trial Cases
under NDPS Act, Chennai
- 2.The Inspector of Police,
M-4 Redhills Police Station,
Chennai.
- 3.The Central Prison,
Puzhal, Chennai.
- 4.The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

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