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*Crl.M.P.No.12679 of 2024
in Crl.A.No.327 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.12679 of 2024

in

Crl.A.No.327 of 2024

Ramamoorthi

...

Petitioner /Accused

Vs.

State of Tamil Nadu rep by
The Inspector of Police,
NIC-CID,
Chennai
(Crime No.55 of 2018)

...

Respondent / Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C. / 430(1) of BNSS praying to suspend the sentence of conviction imposed against the petitioner by judgment dated 13.02.2024 in C.C.No.67 of 2020 passed by the learned Special Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai and enlarge the petitioner on bail, till the disposal of the above Criminal Appeal.

For Petitioner : Mr.M.S.Ramesh

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



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ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner to to suspend the sentence of conviction imposed against the petitioner by judgment dated 13.02.2024 in C.C.No.67 of 2020 passed by the learned Special Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai and enlarge the petitioner on bail, till the disposal of the above Criminal Appeal.

2. The case of the prosecution is that on 01.09.2018, when the respondent were on duty at the Central Railway Station, they enquired the petitioner on suspicion who was waiting in Platform No.9 and was found in possession of 6 kgs. of ganja in a big shopper bag and that after complying the mandatory provisions, FIR was registered and the petitioner was arrested.

3. The petitioner/accused in C.C.No.67 of 2020 was convicted by the Trial Court by judgment dated 13.02.2024 under Section 8(c) r/w 20(b)(ii) (B) of NDPS Act and was sentenced to undergo rigorous imprisonment for 4 years and to pay a fine of Rs.40,000/- and in default thereof, to undergo rigorous



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imprisonment for a period of 3 months under Section 235 (2) of Cr.P.C. Aggrieved by the same, the petitioner/accused filed Crl.A.No.327 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 mandatory provisions under Section 52-A of the NDPS Act was not complied with; that there was a delay of 33 days in depositing the property before the Special Court; that the manner of seizure throws a doubt on the prosecution case and that the petitioner is in custody from 13.02.2024 and prayed for suspension of sentence.

5. The learned Government Advocate (crl.side) appearing for the respondent, per contra, would submit that the prosecution had proved its case beyond reasonable doubt; that there are three other cases pending against the petitioner, viz. (i) on the file of Theni NIB CID Police Station in Crime No.100 of 2015 u/s 80(c) r/w 20(b)(ii) (A) of NDPS Act; (ii) on the file of Arambakkam Police Station, Thiruvallur District in Crime No.18 of 2021 u/s 8(c) r/w 20(b)(ii)(C), 29(1) of NDPS Act and (iii) on the file of Jolarpet,



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Vellore Police Station in Crime No.not known for having committed similar offences and prayed for dismissal of the petition.

6. In reply to the submissions of the learned Government Advocate (crl.side), the learned counsel for the petitioner submitted that in the above mentioned two cases, the petitioner was found in possession of either small quantity or intermediate quantity and that he is on bail in both the cases. This fact was confirmed by the learned Government Advocate(crl.side) appearing for the respondent.

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

8. Considering the fact that the petitioner is in custody from 13.02.2024 and that there are arguable points in the above appeal and the period of sentence imposed by the trial court, this Court is inclined to grant the relief of suspension of sentence to the petitioner.



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9. 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/-, with two sureties, each for a like sum to the satisfaction of the learned Special Judge, II Additional Special Court for Exclusive Trial of 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 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 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.

18.11.2024

rgt

Issue order copy by 20.11.2024
Upload the order copy forthwith.



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SUNDER MOHAN, J.

rgt

To

1.The Special Judge,
II Additional Special Court for Exclusive Trial of Cases under NDPS Act,
Chennai

2. The Superintendent,
Central Prison,
Puzhal – I,
Chennai.

3.The Inspector of Police,
NIC-CID,
Chennai

4.The Public Prosecutor,
High Court, Madras.

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