



WEB COPY



*CrI.M.P.No.13304 of 2024
in CrI.A.No.1197 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.M.P.No.13304 of 2024

in

CrI.A.No.1197 of 2024

Anandharaj

...

Petitioner /Accused

Vs.

State Represented by
Inspector of Police,
T-7 Avadi Tank Factory Police Station,
Chennai

...

Respondent / Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 430 of BNSS r/w 483 of BNSS Act praying to suspend the sentence imposed on the petitioner in C.C.No.508 of 2023 dated 12.09.2024 passed by the learned Principal Special Judge, EC & NDPS Court, Chennai, pending disposal of the above Criminal Appeal and enlarge the petitioner on bail.

For Petitioner : Mr.D.Padmanabhan

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



*Crl.M.P.No.13304 of 2024
in Crl.A.No.1197 of 2024*

WEB COPY

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner to suspend the sentence imposed on the petitioner in C.C.No.508 of 2023 dated 12.09.2024 passed by the learned Principal Special Judge, EC & NDPS Court, Chennai, pending disposal of the above Criminal Appeal and enlarge the petitioner on bail.

2. The case of the prosecution is that on 20.11.2022, at about 9.15 a.m., on receipt of information, Sub-Inspector of Police, attached to the respondent proceeded to the spot and secured the petitioner and another person and on search, the petitioner produced 20 small packets containing ganja weighing totally 1.350 kgs and that after following the mandatory provisions, FIR was registered against the petitioner and A.2.

3. The petitioner/accused in C.C.No.508 of 2023 was convicted by the Trial Court by judgment dated 12.09.2024 under Section 8(c) r/w 20(b)(ii) (B) of NDPS Act and was sentenced to undergo rigorous imprisonment for 5 years and to pay a fine of Rs.50,000/- for the offence u/s 8(c) r/w 20(b)(ii) (B) of NDPS Act and in default of payment of fine thereof, to undergo further period



*Crl.M.P.No.13304 of 2024
in Crl.A.No.1197 of 2024*

WEB COPY

of 6 months rigorous imprisonment. Aggrieved by the same, the petitioner/accused filed Crl.A.No.1197 of 2024 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The learned counsel for the petitioner would submit that there are contradictions in the evidence of PW1 and other witnesses as regards the time of search and seizure ; that the cover in which the search contraband was kept was not produced before the court and that the respondent had not complied with the mandatory provisions under Section 42(1) and (2), 50 & 52A of the NDPS Act and that the petitioner had not committed any offence under the NDPS Act and prayed for suspension of sentence.

5. The learned Government Advocate (crl.side) appearing for the respondent, per contra, would submit that the evidence of PW1 and other witnesses would conclusively establish that the petitioner was found in possession of the contraband and that the petitioner is facing four previous cases registered on the file of the respondent and prayed for dismissal of the petition.



*Crl.M.P.No.13304 of 2024
in Crl.A.No.1197 of 2024*

WEB COPY

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

7. On perusal of the counter, it is seen that the four cases registered against the petitioner are under Tamil Nadu Criminal Law Amendment Act, Public Property (Prevention of Destruction and Loss) Act and other penal code offences. The petitioner was not involved in any other case under NDPS Act. Further, the Trial Court has disbelieved the case of the respondent as regards the role of A.2.

8. The petitioner has raised arguable points in the above appeal as regards the contradiction in the evidence of the case and the violation of mandatory provisions.

9. Considering the above submission made by the learned counsel for the petitioner, the period of incarceration, the fact that the petitioner is in custody from 12.09.2024 and that the appeal is not likely to be taken up in the



*Crl.M.P.No.13304 of 2024
in Crl.A.No.1197 of 2024*

near future, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

10. 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 Principal Special Judge, EC & NDPS Court, 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.

13.11.2024

rgf

Issue order copy by 18.11.2024
Upload the order copy forthwith.



WEB COPY



*Crl.M.P.No.13304 of 2024
in Crl.A.No.1197 of 2024*

SUNDER MOHAN, J.

rgt

To

1.The Principal Special Judge,
EC & NDPS Court,
Chennai

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

3.The Inspector of Police,
T-7 Avadi Tank Factory Police Station,
Chennai.

4.The Public Prosecutor,
High Court, Madras.

Crl.M.P.No.13304 of 2024
in Crl.A.No.1197 of 2024

13.11.2024