



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2024

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

Crl.M.P.Nos.16421 & 16713 of 2023

in

Crl.A.Nos.1113 & 1143 of 2023

Shanmugam

... Petitioner in Crl.M.P.No.16421
of 2023/A1

Saravanan

... Petitioner in Crl.M.P.No.16713
of 2023/A2

Vs.

State represented by
The Inspector of Police,
M-8 Sathangadu Police Station,
Chennai – 600 068.
(Crime No.2369 of 2020)

... Respondent in both petitions

Prayer in Crl.M.P.No.16421 of 2023 : Criminal Miscellaneous Petition filed u/s 389(1) of Cr.P.C. seeking to suspend the sentence of imprisonment imposed on the petitioner in C.C.No.21 of 2021 on the file of the learned Principal Special Court under EC & NDPS Act, Chennai dated 22.09.2023 and enlarge the petitioner on bail pending in C.A.No. of 2023 on the file of this Court.



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Prayer in Crl.M.P.No.16713 of 2023 : Criminal Miscellaneous Petition filed u/s 389(1) of Cr.P.C. seeking to suspend the sentence of imprisonment imposed on the petitioner in C.C.No.21 of 2021 on the file of the learned Principal Special Court under EC & NDPS Act, Chennai dated 22.09.2023 and enlarge the petitioner on bail pending in C.A.No. of 2023 on the file of this Court.

For Petitioner : Mr.T.S.Srinivasan
(in
Crl.M.P.No.16421 of
2023)

For Petitioner : Mr.M.Illiyas
(in
Crl.M.P.No.16713 of
2023)

For Respondent : Mrs.G.V.Kasthuri
(in both petitions) Additional Public Prosecutor

COMMON ORDER

These Criminal Miscellaneous Petition have been filed seeking to suspend the sentence of imprisonment imposed on the petitioners in C.C.No.21 of 2021 on the file of the learned Principal Special Court under EC & NDPS Act, Chennai dated 22.09.2023 and enlarge the petitioners on bail.



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2. The petitioners were convicted for the offence under Sections 8(c) r/w 29(1), 20(b) (ii) (B) and 25 of the NDPS Act and were sentenced to undergo rigorous imprisonment for 5 years each 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 22.09.2023 made in C.C.No.21 of 2021. Aggrieved by the same, the above appeals have been filed along with these petitions 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 9 months. Accordingly, he prayed for appropriate orders.



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4. Learned Additional Public Prosecutor appearing for the respondent submitted that, cases under IPC are pending against the petitioners. 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 appeals and further, the appeals are 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.

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 appeals.

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. Accordingly, these criminal miscellaneous petitions are ordered.

19.06.2024

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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,
M-8 Sathangadu Police Station,
Chennai – 600 068.
4. The Public Prosecutor,
High Court of Madras.



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M.DHANDAPANI, J.

sp

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