



Crl.M.P.No.18114 of 2023 in Crl.A.No.1291 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.18114 of 2023
in Crl.A.No.1291 of 2023

Sathish Kumar,
S/o.Selvaraj

... Petitioner

Vs.

The State Rep.
Inspector of Police,
Variety Hall Road Police Station,
Coimbatore District.
Crime No.38 of 2019.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Sections 389(1) and 439 of Code of Criminal Procedure, to suspend the sentence imposed in the judgment dated 29.05.2023 passed in C.C.No.59 of 2019 by the Special Court under EC Act/NDPS Act, Coimbatore, enlarge the petitioner on bail, pending disposal of the above criminal appeal.

For Petitioner : Mr.C.D.Sugumar

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 C.C.No.59 of 2019, dated 29.05.2023 by the learned Additional District Judge, Special Court under EC and NDPS Act, Coimbatore and to enlarge the petitioner on bail pending disposal of the appeal.

2.It is the case of the prosecution that the respondent Police on secret information searched the petitioner and found that he was in possession of 1.250 kgs of dry ganja which was seized under the Seizure Mahazar (Ex.P3).

3.The petitioner was convicted for offence under Section 8(c) r/w 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to undergo seven years imprisonment and was ordered to pay a fine of Rs.50,000/- and in default of payment of fine to undergo Rigorous imprisonment for one year *vide* judgment, dated 29.05.2023 made in C.C.No.59 of 2019.

4.Heard Mr.C.D.Sugumar, learned counsel for the petitioner and



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Dr.C.E.Pratap, learned Government Advocate (Crl. Side) appearing for the respondent/State.

5.The learned counsel appearing for the petitioner would submit that the petitioner was sentenced to undergo seven years Rigorous Imprisonment and he is in custody from 25.07.2023; and that the petitioner has arguable points in the appeal. He would further submit that the respondent Police has violated the mandatory provision under Section 50 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and had not filed the report as mandated under Section 57 of the Narcotic Drugs and Psychotropic Substances Act, 1985; and prayed for suspension of sentence.

6.The learned Government Advocate (Crl. Side) *per contra* submitted that the prosecution had complied with all the mandatory provisions; and that the judgment of the Trial Court does not call for any interference by this Court.

7.Considering the submissions made by the learned counsel for the



petitioner and the fact that the petitioner has served 1 ½ years of sentence out of seven years of imprisonment; and that since there are arguable points in the appeal, this Court is inclined to grant relief of suspension of sentence.

8. Accordingly, this criminal miscellaneous petition is allowed and till the disposal of the Criminal Appeal, the sentence imposed upon the petitioner/accused by the Trial Court, is suspended on the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only), with two sureties, each for a like sum to the satisfaction of the learned Additional District Judge, Special Court under EC and NDPS Act, Coimbatore;

(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



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(iii)The petitioner shall appear before the trial Court on the first working day of every 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.

11.11.2024

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To

- 1.The Additional District Judge, Special Court under EC and NDPS Act,
Coimbatore
- 2.The Inspector of Police,
Variety Hall Road Police Station,
Coimbatore District.
- 3.The Central Prison,
Coimbatore.
- 4.The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

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