



Crl.M.P.No.17983 of 2023  
in  
Crl.A.No.792 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED : 23.07.2024**

CORAM :

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

Crl.M.P.No.17983 of 2023  
in  
Crl.A.No.792 of 2023

Rajesh Kannan

... Petitioner/A2

Vs.

State rep. by:  
The Inspector of Police,  
Sulur Police Station,  
Coimbatore District.  
(Crime No.287 of 2022)

... Respondent

**Prayer** : Criminal Miscellaneous Petition filed u/s 389(1) of Cr.P.C. seeking to suspend the sentence imposed on the petitioner by order dated 21.06.2023 in C.C.No.148 of 2022 on the file of the Special Court under EC Act/NDPS Act, Coimbatore and release the petitioner on bail till the disposal of the above Crl.A.No.792 of 2023.

For Petitioner : Mr.M.S.Charles

For Respondent : Mrs.G.V.Kasthuri  
Additional Public Prosecutor

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**ORDER**



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**WEB COPY** This Criminal Miscellaneous Petition has been filed by the petitioner seeking to suspend the sentence of imprisonment imposed on the petitioner in C.C.No.148 of 2022 on the file of the Special Court under EC Act/NDPS Act, Chennai dated 21.06.2023 and enlarge him on bail.

2. The petitioner/A2 was convicted for the offence under Sections 8(c) r/w 20(b) (ii) (C) of the NDPS Act and was sentenced to undergo rigorous imprisonment for 20 years and was ordered to pay a fine of Rs.2,00,000/-, in default of payment of fine, to undergo rigorous imprisonment for a further period of one year and he was also convicted for the offence u/s 25 of the NDPS Act and was sentenced to undergo rigorous imprisonment for 20 years and was ordered to pay a fine of Rs.2,00,000/- in default of payment of fine, to undergo rigorous imprisonment for a further period of one year and further, the petitioner was convicted for the offence u/s 29(1) of the NDPS Act and was sentenced to undergo rigorous imprisonment for 20 years and was ordered to pay a fine of Rs.2,00,000/-, in default of payment of fine, to undergo rigorous imprisonment for a further period of one year, vide judgment dated 21.06.2023 made in C.C.No.148 of 2022. Aggrieved by the same, the above appeal has been filed along with



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WEB CRY this petition seeking suspension of sentence.

3. Learned counsel for the petitioner submitted that, the petitioner is an innocent person and he has been falsely implicated in this case. Further, he submitted that the mandatory provision u/s 42, 50, 55 and 52A of NDPS Act was not complied with by the prosecution. 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 petitioner is in jail for one year and six months and now, he was confined in Central Prison, Coimbatore. Accordingly, he prays for suspension of sentence.

4. Learned Additional Public Prosecutor appearing for the respondent submitted that, on 05.05.2022, it is found that the petitioner/A2 and A1 have kept 50 Kgs of ganja. She further submitted that, the contraband seized from the petitioner/A2 and A1 was commercial quantity. Hence, she vehemently opposed for suspension of sentence imposed on the petitioner.

5. Having regard to the fact that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also considering the period of incarceration, I



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am of the considered opinion that the petitioner is entitled for the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail, on condition that 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 Special Court under EC Act/NDPS Act, Coimbatore and on further condition that the petitioner shall appear before the trial Court twice in a week i.e., on Monday and Friday of every week at 10.30 am, pending appeal. Further, the petitioner is directed to pay the entire fine amount as ordered by the trial court, within a period of two (2) weeks from the date of receipt of a copy of this order, failing which, the suspension of substantive sentence of imprisonment alone granted today, shall stand automatically vacated, without any further reference to this Court.

7. Further, it is made clear that, if the petitioner indulges in similar offence in the future, the suspension of substantive sentence alone granted today will automatically stand dismissed without any further reference to



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WEB COPY this Court.

8. Accordingly, this criminal miscellaneous petition is ordered.

9. Post the main appeal in Crl.A.No.792 of 2023 as per seriatum.

**23.07.2024**

sp

To

- 1.The Special Court under EC Act/NDPS Act, Coimbatore.
- 2.The Central Prison, Coimbatore.
- 3.The Inspector of Police, Sulur Police Station, Coimbatore District.
- 4.The Public Prosecutor, High Court of Madras.



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**M.DHANDAPANI, J.**

sp

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