



WEB COPY



*Crl.M.P.No.15419 of 2024
in Crl.A.No.1348 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.15419 of 2024

in

Crl.A.No.1348 of 2024

Deepika

...

Petitioners /A.2

Vs.

State Rep.by

The Inspector of Police,

J11/T15 Kannagi Nagar Police Station,

Chennai .

...

Respondent / Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 430 of BNSS Act 2023 praying to suspend the sentence imposed by the learned Principal Special Judge under EC & NDPS Act at Chennai in C.C.No.168 of 2022 dated 23.10.2024 and enlarge the petitioner on bail, pending disposal of the above appeal.

For Petitioner : Mr.K.Shanmugam

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



WEB COPY



*Crl.M.P.No.15419 of 2024
in Crl.A.No.1348 of 2024*

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed by the learned Principal Special Judge under EC & NDPS Act at Chennai in C.C.No.168 of 2022 dated 23.10.2024 and enlarge the petitioner on bail, pending disposal of the above appeal.

2. It is the case of the prosecution that on information, the Sub Inspector of Police attached to the respondent alongwith the other police officials went to the spot where the petitioner alongwith A.1 were said to be in possession of ganja for the purpose of selling; that they intercepted the auto in which the petitioner and A.1 came and after completing the statutory formalities, they found that the petitioner was in possession of a white colour bag in which 1.3 kgs. of ganja was found; that the samples were draw and thereafter FIR was registered for the offence under Section 8(c) r/w 20(b)(ii)(B) of NDPS Act.

3. The petitioner/accused C.C.No.168 of 2022 was convicted by the Trial Court by judgment dated 23.10.2024 for the offence under Section 8(c) r/w 29 (1) of the NDPS Act and sentenced to undergo 2 ½ years Rigorous



*Crl.M.P.No.15419 of 2024
in Crl.A.No.1348 of 2024*

Imprisonment and to pay a fine of Rs.25,000/-, in default, to undergo 6 months Rigorous Imprisonment and for the offence u/s 80(c) r/w 20(b)(i)(B) of the NDPS Act and sentenced to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.50,000/- and in default to undergo 6 months Rigorous Imprisonment. Aggrieved by the same, the petitioner/accused filed Crl.A.No.1348 of 2024 alongwith the instant miscellaneous petition seeking suspension of sentence and bail.

4. The learned counsel for the petitioner would submit that there are contradictions between the evidence of PW1 and the other members of the team who had conducted search and that the respondents had not complied with the mandatory provisions under Section 51 of NDPS Act and that the documents were prepared in the police station and that the petitioner being a lady, has to take care of her four children.

5. Heard the learned Government Advocate (crl.side) appearing for the respondent who would submit that the petitioner has not made out any ground for suspension of sentence; and that one case has been registered against the petitioner under Section 307 of IPC which is pending before the learned



*Crl.M.P.No.15419 of 2024
in Crl.A.No.1348 of 2024*

Judicial Magistrate, Sholingur and therefore prayed that the petition may be dismissed.

6. In reply, the learned counsel for the petitioner would submit that the offence under Section 307 IPC was not made out and the offences charged are triable by the Magistrate and the case is now pending trial before the Judicial Magistrate, Sholingur.

7. On perusal of the records, it is seen that the petitioner was in custody during investigation for one month and is now in custody from 23.10.2024. Considering the fact that the petitioner has raised substantial grounds in the appeal which requires consideration; the period of incarceration and that there are no previous cases registered against the petitioner under the NDPS Act; that the contraband seized is not of commercial quantity; and there is only one case registered for IPC offence against the petitioner and the same is pending before the learned Judicial Magistrate, Sholingur, this court is inclined to grant the relief of suspension of sentence to the petitioner.

8. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioners are suspended and the petitioners are



*Crl.M.P.No.15419 of 2024
in Crl.A.No.1348 of 2024*

ordered to be released on bail on the following conditions:

WEB COPY

- (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 Principal Special Judge under EC & NDPS Act at 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 she is not able to appear before the trial Court on any day, she 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 her absence, as directed by the trial Court.

27.11.2024

rg

Issue order copy by 29.11.2024
Upload the order copy forthwith.



WEB COPY



*Crl.M.P.No.15419 of 2024
in Crl.A.No.1348 of 2024*

To

1.The Principal Special Judge
under EC & NDPS Act,
Chennai.

2. The Superintendent,
Central Prison for Women,
Puzhal, Chennai.

3.The Inspector of Police,
J11/T15, Kannagi Nagar Police Station,
Chennai.

4.The Public Prosecutor,
High Court, Madras.



WEB COPY



*Crl.M.P.No.15419 of 2024
in Crl.A.No.1348 of 2024*

SUNDER MOHAN, J.

rgt

Crl.M.P.No.15419 of 2024
in Crl.A.No.1348 of 2024

27.11.2024