



Crl.M.P.(MD) No.574 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Twenty Second day of February Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

Crl.M.P.(MD) No.574 of 2024

in

Crl.A.(MD) No.57 of 2024

PONNUSAMY

... APPELLANT/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
CHATRAPATTI POLICE STATION,
DINDIGUL,
DINDIGUL DISTRICT.
CRIME NO.51/2017.

... RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence of imprisonment imposed by the learned Ist Additional Special Court for EC and NDPS Act Cases, Madurai in CC No.216/2017 by the Judgment dated /12/6/2023 and enlarge the petitioner/appellant on bail, pending disposal of the above Criminal Appeal.

Prayer in Crl.A.(MD) No.57 of 2024:

To call for the records in CC.No.216 of 2017 dated 12.06.2023 on the file of the Learned Ist Additional Special Court for EC and NDPS Act Cases, Madurai and set aside the same.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.AK.AZAGAR SAMI, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent No.1, the court made the following order:-



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The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on him by the learned I Additional Special Court for NDPS Act Cases, Madurai, in C.C.No.216 of 2017 dated 12.06.2023 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. It is submitted by the learned counsel for the petitioner that a case has been registered against the petitioner in Crime No.51 of 2017, on the file of the respondent/Inspector of Police, Chatrapatti Police Station, Dindigul, Dindigul District, for the offences punishable under Sections 8(c) read with 20(b) (ii) (B) of NDPS Act and the same was taken on file in C.C.No.216 of 2017 before the learned I Additional Special Court for NDPS Act Cases, Madurai. The petitioner was convicted and sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) with one year simple imprisonment in case of default for the offence under Sections 8(c) read with 20(b) (ii) (B) of NDPS Act. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Criminal Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel for the petitioner would submit that the



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prosecution failed to corroborate the evidence of prosecution witnesses and at the time of occurrence, the respondent has not at all followed the procedure as contemplated under the NDPS Act and no clinching material was available with the prosecution to prove the manner in which the seizure has been effected. The learned counsel further submitted that the trial Court failed to note that there is a correction and over writings in Form-91 sent to the Court, with regard to weight of the contraband and the colour of the baggage alleged to be recovered from the accused. He further submitted that though the contraband was seized, it was not produced before the concerned Court within the time stipulated under the NDPS Act. Therefore, the learned counsel prays for suspension of sentence of the petitioner. He further submitted that the petitioner is in judicial custody from 12.06.2023.

4. The learned Additional Public Prosecutor appearing on behalf of the State submitted that the petitioner has involved in three similar previous cases and in two cases the petitioner was convicted and he is a habitual offender and he is in custody pursuant to the confirmation of conviction by the Court and hence, prays to dismiss the petition.

5. Heard the learned counsel appearing for the petitioner and the learned



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Additional Public Prosecutor appearing for the State and perused the materials available on record.

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6. This Court finds force in the submission of the learned counsel for the petitioner. Considering the facts and circumstances of the case, this Court is of the prima facie view that there are arguable points involved in this Criminal Appeal. Moreover, the petitioner has been incarcerated from 12.06.2023 and further the Criminal Appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned I Additional Special Court for NDPS Act Cases, Madurai, in C.C.No.216 of 2017 dated 12.06.2023 alone is suspended, subject to the following conditions:-

- i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned I Additional Special Court for NDPS Act Cases, Madurai.



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ii) The petitioner shall appear and sign before the learned I Additional Special Court for NDPS Act Cases, Madurai, on the first working day of every English calendar month at 10.30 a.m., until further orders.

iii) In case, if the petitioner is unable to appear before the Court on the first working day of a month, he shall appear on the next working day.

iv) The petitioner shall furnish his residential address and mobile number to the Trial Court ie., learned I Additional Special Court for NDPS Act Cases, Madurai.

v) The petitioner is directed to pay the fine amount immediately, as directed by the Court below, if any.

8. Subject to the above conditions, this Criminal Miscellaneous Petition is allowed.

sd/-
22/02/2024

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23/02/2024
Sub-Assistant Registrar (CS- I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1.THE I ADDITIONAL SPECIAL JUDGE FOR NDPS ACT CASES, MADURAI.

2.THE INSPECTOR OF POLICE
CHATRAPATTI POLICE STATION, DINDIGUL, DINDIGUL DISTRICT.

3.THE SUPERINTENDENT,CENTRAL PRISON, MADURAI.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

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in Crl.A.(MD) No.57 of 2024

Date :22/02/2024

RK(23/02/2024) 6P / 5C

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