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

Thursday, the Fifteenth day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.891 of 2024

in

CRL A(MD)No.307 of 2023

NAGAMMAL

AT PRESENT CONFINED AT

SPECIAL PRISON FOR WOMEN ... PETITIONER/ APPELLANT/ ACCUSED No.2

Vs

THE INSPECTOR OF POLICE
KARIMEDU POLICE STATION,
MADURAI DISTRICT.

CRIME NO.1466/2020

... RESPONDENT/RESPONDENT/COMPLAINANT

Criminal Miscellaneous 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 imposed on the Petitioner / Appellant / Accused No.2 namely Nagammal, W/o.Rajangam passed by the Learned II Additional Special Court for NDPS Act Cases, Madurai in CC No.16/2021 dated 28.03.2023 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

PRAYER in CRL A(MD)No.307 of 2023:

To call for the records in C.C.No.16 of 2021 dated 28.03.2023 on the file of the Learned II-Additional Special Court for NDPS Act Cases, Madurai and set aside the same.



Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.JEGADEESH PANDIAN.M, Advocate for the petitioner and of Mr.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on her by the learned II Additional Special Court for NDPS Act Cases, Madurai, in C.C.No.16 of 2021 dated 28.03.2023 and to enlarge her on bail, pending disposal of the Criminal Appeal.

2.The case of the prosecution is that on 05.10.2020 at about 12.30 hours, the respondent Police has conducted the prohibition raid near Karimedu area. At that time, the first accused and the petitioner/ A2 were found in possession of 11 kgs of Ganja being transported in TVS Scooty Pink Colour vehicle bearing Registration No.TN-58-BC-9390 and were having the sale consideration of Rs.7,300/- and A3 and A5 were found in possession of 11 kgs of Ganja being transported in Honda Activa Black Colour Vehicle bearing Registration No.TN-58-AP-6669 and A4 was piloting the other accused in Hero Honda Splendor Pro Black Colour vehicle bearing Registration No.TN-58-AC-4767 on Amma Bridge Roundana, Arappalayam, Madurai and on that basis, FIR came to be registered in Crime No.1466 of 2020 on



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the file of the respondent/Inspector of Police, Karimedu Police Station, Madurai, 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.16 of 2021 before the learned II Additional Special Court for NDPS Act Cases, Madurai. The petitioner was convicted and sentenced to undergo five years rigorous imprisonment and to pay a fine of Rs.40,000/- (Rupees Fourty Thousand only) with six months simple imprisonment in case of default. 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 appearing for the petitioner would submit that the respondent has not followed the procedures established under NDPS Act and no clinching material was produced to prove the manner in which the seizure has been effected and there is no corroboration between the evidence of P.W.1 and other witnesses and the delay in lodging the complaint, registration of FIR and reaching to Judicial Magistrate after long delay was not at all properly explained by the trial Court and there is no plausible reason given by the trial Court for accepting the delay.



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4. The learned counsel appearing for the petitioner would further submit that the petitioner is aged about 76 years and she has been suffering from Kidney ailments during the trial period and under went treatment in the Government Rajaji Hospital, Madurai and her health condition is now deteriorated and she is in jail from 06.10.2020. Out of five years conviction period, she underwent 3 ½ years, more than half of the sentence. Hence, the learned counsel prays for suspension of sentence of the petitioner.

5. The learned Additional Public Prosecutor appearing for the respondent would submit that the contradictions that were pointed by the defence would go to show that they are trivial and not material and that would affect the root of the prosecution case and all the grounds raised by the petitioner are vague and unsustainable. He further submitted that the petitioner/A2 being the mother of A1 was very much travelling in the same two wheeler which stands in the name of the daughter of A1 and the trial Court, after considering the evidence available on record in a proper perspective, has rightly convicted the petitioner. Moreover, the petitioner has 25 previous cases and she is a habitual offender and hence, prays to dismiss the petition.



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6. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State and perused the materials available on record.

7. This Court finds force in the submission of the learned counsel for the petitioner. Hence, 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 06.10.2020 and also considering the age of the petitioner 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.

8. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned II Additional Special Court for NDPS Act Cases, Madurai, in C.C.No.16 of 2021 dated 28.03.2023 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 II Additional Special Court for NDPS Act Cases, Madurai.



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ii) The petitioner shall appear and sign before the learned II Additional Special Court for NDPS Act Cases, Madurai, on the first working day of every English calender 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, she shall appear on the next working day.

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

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

sd/-
15/02/2024

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20/02/2024
Sub-Assistant Registrar()
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM

TO

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

2 THE INSPECTOR OF POLICE
KARIMEDU POLICE STATION,
MADURAI DISTRICT.



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3 THE OFFICER INCHARGE/SUPERINTENDENT,
SPECIAL PRISON FOR WOMEN, MADURAI.

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

+1 CC to M/s.M.JEGADEESHPANDIAN, Advocate (SR-1995[I] dated 16/02/2024)

ORDER
IN
CRL MP(MD) No.891 of 2024
in
CRL A(MD)No.307 of 2023
Date :15/02/2024

SS/SAR- /20/02/2024/7P/6C

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