



CRL MP(MD) No.2112 of 2024

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

Monday, the Fourth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.2112 of 2024

in

CRL A(MD) No.138 of 2024

1 SIVA

2 POONGOTHAI

3 BOSE

... Petitioner / Appellants / Accused No.1 to 3

Vs

THE INSPECTOR OF POLICE
CUMBUM NORTH POLICE STATION,
THENI DISTRICT.

(CRIME NO. 427 OF 2017)

... 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 petitioners / Appellants / Accused No.1 to 3 passed by the learned II Additional Special court for NDPS Act Cases, Madurai in C.C No. 346 of 2017 dt. 22.01.2024 and enlarge us on bail pending disposal of the criminal appeal.

Prayer in CRL A(MD) No.138 of 2024:

To call for the records in C.C.No.346 of 2017 dated 22.01.2024 on the file of the learned II Additional Special Court for NDPS Act Cases, Madurai and set aside the same.



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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 petitioners and of Mr.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, while admitting the criminal appeal, the court made the following order:-

The petitioners have filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on them by the learned II Additional Special Court for NDPS Act Cases, Madurai, in C.C.No.346 of 2017 dated 22.01.2024 and to enlarge them on bail, pending disposal of the Criminal Appeal.

2. It is submitted by the learned counsel for the petitioners that a case has been registered against the petitioners in Crime No.427 of 2017, on the file of the respondent/Inspector of Police, Cumbum North Police Station, Theni 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.346 of 2017 before the learned II Additional Special Court for NDPS Act Cases, Madurai. The petitioners were convicted and sentenced to undergo one year rigorous imprisonment each and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) each with three months 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 petitioners have preferred the present Criminal Appeal along with the above



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Criminal Miscellaneous Petition seeking suspension of sentence.

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3. The learned counsel for the petitioners would submit that the 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. 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 petitioners. He further submitted that the petitioners are in judicial custody from 22.01.2024.

4. The learned Additional Public Prosecutor appearing on behalf of the State submitted that A1 has involved in three similar previous cases, A2 has involved in six similar previous cases and A3 has involved in three similar previous cases and apart from that one previous case of IPC offence and they are habitual offender and they are 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 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 petitioners. 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 petitioners have been incarcerated for a period of more than 3 months 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 petitioners herein are entitled to the relief of grant of suspension of sentence.

7. 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.346 of 2017 dated 22.01.2024 alone is suspended, subject to the following conditions:-

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

ii) The petitioners shall appear and sign before the learned II 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.



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iii) In case, if the petitioners are unable to appear before the Court on the first working day of a month, they shall appear on the next working day.

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

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

sd/-
04/03/2024

/ TRUE COPY /

06/03/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM

To

1.The Additional District Judge,
II Additional Special Court for NDPS Act Cases, Madurai.

2.The Inspector of Police,
Cumbum North Police Station,
Theni District.

3.The Superintendent,
Central Prison, Madurai.



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4.The Superintendent,
Special Prison for Women,
Madurai.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to:

The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court, Madurai. (2 copies)

+1 CC to M/s.M.JEGADEESH PANDIAN, Advocate (SR-2748[I] dated
05/03/2024)

ORDER
IN
CRL MP(MD) No.2112 of 2024
in
CRL A(MD) No.138 of 2024
Date :04/03/2024

ED/ /SAR- (06/03/2024) 6P / 9C

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