



Crl.M.P.(MD)No.2345 of 2024

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

Thursday, the Twentieth day of June Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

Crl.M.P.(MD)No.2345 of 2024

in

Crl.A.(MD)No.156 of 2024

C.ARUMUGAKANI

... PETITIONER/ APPELLANT/
ACCUSED NO.4

Vs

THE INSPECTOR OF POLICE
MUNNEERPALLAM POLICE STATION,
TIRUNELVELI DISTRICT.
CR.NO.526/2020

... 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 Sentenced imposed by the I Additional Special Court for NDPS Act Cases Madurai passed in the CC No.147/2017 dt 30.01.2024 and enlarge the petitioner on bail pending disposal of the Criminal Appeal and thus render justice.

Prayer in Crl.A.(MD)No.156 of 2024:

To allow the above appeal and Call for the records set aside the conviction and sentence passed by Judgment dated 30.01.2024 in C.C.No.147 of 2021 of I Additional Special Court for NDPS Act Cases, Madurai and acquit the appelliant herein of all the charges.

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 MR.G.KARUPPASAMY PANDIYAN, Advocate for MR.N.MANI MARAN, Advocate for the petitioner and of MR.B.NAMBISELVAN, Additional Public PRosecutor on behalf of the Respondent the court made the following order:-



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This petition has been filed to suspend the sentence imposed by the I Additional Special Court for NDPS Act cases, Madurai passed in C.C.No.147 of 2017 dated 30.01.2024 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

2. The case of the prosecution is that on 09.09.2020 at 15.00 hours the Police team while on check up saw one Balaji CT 100 bike bearing Registration No.TN72-BF-2363 and one Black Colour Chevrolet Car bearing Registration No.TN05-AP-7270 coming from North to South direction and on check found 1 packet of ganja weighing 2.100 Kgs kept in the two wheeler in which two persons were coming and found 9 packets of ganja each containing 2.100 Kgs kept in the Car in which 5 persons were coming and the total weight of the contraband is 21 Kgs of ganja and therefore have charged them for the commission of offence punishable under Section 8 (c) r/w 20(b) (ii) (B) and 25 of NDPS Act. Thereafter, he was produced before the Court along with the contraband and he was remanded to judicial custody. After completion of investigation, the respondent police filed a final report and the same has been taken cognizance in C.C.No.147 of 2021, on the file of the I Additional Special Court for NDPS Act Cases, Madurai.



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3. During the trial, the prosecution has examined 3 witnesses as P.W.1 to P.W.3 and exhibited 10 documents as Ex.P.1 to Ex.P.10 and marked 30 Material Objects as P.M.O.1 to P.M.O.30 and exhibited 1 document as Ex.D.1 on the side of the accused and no witnesses and Material Objects were marked on the side of the accused.

4.The learned Special Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, convicted him for the offence under Section 8 (c) r/w 20(b) (ii) (B) of NDPS Act and sentenced him to undergo 4 years Rigorous Imprisonment and to pay a fine of Rs.40,000/- in default, to undergo 5 months Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5. The learned counsel appearing for the petitioner would submit that conviction has passed under Section 8(c) r/w 20(b)(ii)(B). He has to undergo 4 years Rigorous Imprisonment, among 4 years, he has already undergone 2 and half years. Hence he is entitled the benefits under Section 437(A) of Cr.P.C. He further stated that similar accused No.2 granted Suspension of Sentence by this Court in Crl.M.P



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(MD)No.5365 of 2024 in Crl.A(MD)No.394 of 2024 dated 23.05.2024. Hence the same benefit also extended to him. Therefore, totally he has undergone nearly 4 years imprisonment. In view of the above arguable points, he seeks to grant of suspension of sentence to the petitioner.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that co-accused released on bail and also 437(A) is available. Hence, he seeks dismissal of the suspension of sentence.

7. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

8. Admittedly, conviction under Section 8(c) r/w 20(b)(ii)(B) to undergo 4 years Rigorous Imprisonment. He has already undergone 2 and half years and the petitioner is having no previous case. Therefore, this Court finds force in the submission of the learned counsel for the petitioner. Apart from this Court prima facie feels that that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future, the petitioner is in custody and also no bad antecedent is reported against the



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petitioner and this Court considered the co-accused has been granted bail, this Court is inclined to grant of suspension of sentence.

9. Accordingly, the relief of suspension of sentence is granted to the petitioner on 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 I Additional district & Sessions Judge for EC & NDPS Act Cases, Madurai.

(ii) 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 to ensure their identity; and

(iii) The petitioner shall appear before the concerned Court daily at 10.30 a.m., until further orders.

sd/-
20/06/2024

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21/06/2024
Sub-Assistant Registrar (CS -III)
Madurai Bench of Madras High Court,
Madurai - 625 023.

rjr

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TO

WIBBIDPY

1. THE I ADDITIONAL DISTRICT & SESSIONS JUDGE FOR EC & NDPS ACT CASES, MADURAI.
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
- 3.THE INSPECTOR OF POLICE
MUNNEERPALLAM POLICE STATION, TIRUNELVELI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN

Crl.M.P.(MD)No.2345 of 2024

in

Crl.A.(MD)No.156 of 2024

Date :20/06/2024

RK (21/06/2024) 6P / 5C

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