



CRL MP(MD) No.2499 of 2024

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

Wednesday, the Twenty Eighth day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.2499 of 2024

in

CRL A(MD)No. 50 of 2023

MOKKAIAH

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
PALANI TALUK POLICE STATION,
DINDIGUL DISTRICT.
CRIME NO.100 OF 2015.

... RESPONDENT/RESPONDENT

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 temporarily by granting interim bail for a period of one month imposed on the Petitioner by the Principal Special Court for EC and NDPS Act Cases, Madurai passed in CC.No.259 of 2017 dt.14.11.2022 pending disposal of the criminal appeal in Crl.A(MD)No. 50 OF 2023 for the Medical treatment for cardiotoric problem.

PRAYER IN CRL A(MD)No. 50 of 2023;

To call for the records in c.C.NO. 259 of 2017 relating to the judgment dated 14.11.2022 passed by the Principal Special Court for EC & NDPS Act cases, Madurai and to set aside the judgment of the conviction on the appellant/accused.

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.S.SELVAKUMAR, Advocate for the petitioner and of MR.R.SIVAKUMAR,

<https://www.mhc.tn.gov.in/judis>



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Government Advocate (Criminal Side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed by the Principal Special Judge for EC and NDPS Act Cases, Madurai, dated 14.11.2022, in C.C.No.259 of 2017 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.

2.The learned counsel for the petitioner submitted that the petitioner has been convicted for the offences punishable under Sections 8 (C) r/w 20(b)(ii)(B) of NDPS Act and sentenced him to undergo two years Rigorous Imprisonment and imposed fine of Rs.10,000/-, in default, to undergo six months Simple Imprisonment.

3. The case of the prosecution is that on 16.02.2015 at about 09.00 hours the respondent police received a secret information from the informant and conducted raid along with his police party at Pappam Patti Village. At the time, the petitioner was intercepted by the police party and they found that the petitioner was carrying a “Urasakkupai” containing 5.100 kgs of Ganja and hence, the respondent police arrested the petitioner and completed all the formalities on the spot itself. Thereafter, the respondent police went to the police station and registered the FIR in Crime No. 100 of 2015 for the alleged offences under Sections 8(c) r/w 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985.



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4. The learned Counsel appearing for the petitioner would submit that the trial Court has failed to follow Section 50 of the NDPS Act. As per the deposition of PW1, the consent letter has not been signed by the petitioner and has not been attested by the witnesses at the time of arrest made by the respondent police. Further, the respondent police did not explain the delay of 51 days in producing the contraband before the trial Court. As per Section 51 of the NDPS Act, the respondent police should have reported about the recovery to the immediate superior within 48 hours, which was not followed by the respondent police. These facts were not considered by the trial Court at the time of convicting the accused. The learned counsel further submitted that the petitioner underwent open heart surgery. Now, his health condition has become so bad and recently he had heart attack also and subsequently, he was admitted in Rajaji Government Medical College Hospital, Madurai for further treatment and was discharged on 08.02.2024. Now, he is in jail and he wants to take treatment for Cardiac attack. In view of the same, the learned Counsel seeks for an interim suspension of sentence and to enlarge him on bail, pending Criminal Revision.

5. The learned Additional Public Prosecutor submitted that this on the earlier occasion, the petitioner was produced through video conference before this Court

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and he stated that he has undergone open heart surgery on 2019. The learned Additional Public Prosecutor has no serious objection to grant interim suspension to the petitioner.

6. This Court has considered the submissions made by the respective learned counsels and also perused the materials available on record.

7. Considering the above situation and in view of the submissions made by the learned counsel for the petitioner and also considering the health condition of the petitioner, interim suspension is granted to the petitioner for a period of one month.

(*)“8. Accordingly, this Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment alone is suspended for a period of one month from today pending disposal of the Criminal Revision Petition with the following directions:-

(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 Principal Special Court for EC & NDPS Act Cases, Madurai, and

(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.



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iii) The petitioner is granted interim suspension from
01.04.2024 (10.30 a.m) to 30.04.2024 (5.30 p.m).

(iv) The petitioner is directed to surrender before the
Superintendent, Central Prison, Madurai, at 5.30 p.m. on
30.04.2024."

sd/-
28/02/2024

**(*)CORRECTED AS PER ORDER OF THIS COURT
DATED 15.03.2024 IN CRL MP(MD)NO.2499 OF
2024**

/ TRUE COPY /

18/03/2024
Sub-Assistant Registrar (CS -II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PJL

TO
TO BE SUBSTITUTED WITH THE ORDER DATED 28.02.2024 ALREADY
DESPATCHED.

- 1 THE PRINCIPAL SPECIAL JUDGE
FOR EC & NDPS ACT CASES, MADURAI.
- 2 THE II ADDITIONAL SPECIAL JUDGE
FOR NDPS ACT CASES, MADURAI.
- 3 THE INSPECTOR OF POLICE
PALANI TALUK POLICE STATION, DINDIGUL DISTRICT.
- 4 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.



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

+1 CC to M/s.JEYA ARON RAJA, Advocate (SR-2477[I] dated 28/02/2024)

ORDER
IN
CRL MP(MD) No.2499 of 2024
in
CRL A(MD)No. 50 of 2023
Date :28/02/2024

PKP/SAR /05.03.2024/ 6P/7C
RK/ (18.03.2024) 6P/7C

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