



CRL MP(MD) No.3812 of 2024

WEB COPY

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

Thursday, the Twenty Eighth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.3812 of 2024

in

CRL A(MD) No.263 of 2024

SILAMBARASAN

... Petitioner / Appellant / Accused No.2

Vs

THE INSPECTOR OF POLICE

PERIYAKULAM VADAKARAI POLICE STATION

THENI DISTRICT.

(CRIME NO.73/2011.)

... 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 as imposed on judgment dt.23.08.2023 made in CC No.22/2012 on the file of the Honble I Additional Special Court for NDPS Act Cases, Madurai forthwith and thereby enlarge petitioner on bail, pending disposal of the above criminal appeal.

Prayer in CRL A(MD) No.263 of 2024:

To call for the records in CC No.22 of 2012 dated 23.08.2023 on the file of the learned I Additional Special Court of NDPS Act Cases, Madurai in 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.MUTHULAKSHMI S, Advocate for the appellant and of



CRL MP(MD) No.3812 of 2024

Mr.M.MUTHUMANIKKAM, Government Advocate (Crl. side) on behalf of the Respondent, the Court made the following order:-

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence passed against him by the learned I Additional Special Judge for NDPS Act cases, Madurai in C.C.No.22 of 2012 dated 23.08.2023 and to enlarge the petitioner on bail, pending disposal of the Criminal Appeal.

2. It is submitted by learned counsel for the petitioner that a case has been registered against the petitioner in Crime No.73 of 2011 on the file of the respondent/Inspector of Police for the offences punishable under Sections 8(C) read with 20(b) (ii) (c) of 'the Narcotic Drugs and Psychotropic Substances Act, 1985)' [hereinafter 'NDPS Act' for the sake of convenience and clarity] and the same was taken on file in C.C.No.22 of 2012 before the learned I Additional Special Judge for NDPS Act cases, Madurai. The petitioner was convicted and sentenced to three years rigorous imprisonment and fine of Rs.20,000/- with two months simple imprisonment in case of default. Learned counsel for the petitioner submitted that as per Section 52(A) of NDPS Act, the sample has to be drawn in the presence of the Magistrate and the same has not been done in the present case. He submitted that the official witnesses were only examined and the prosecution failed to corroborate the evidence of prosecution witnesses. Learned counsel further submitted that the



CRL MP(MD) No.3812 of 2024

WEB COPY

petitioner has been incarcerated from the date of judgment and hence, if the petitioner is released on bail, he is ready to abide any conditions imposed by this Court and thereby, he prayed for bail.

3. Per contra, learned Government Advocate (Crl. Side) would submit that there are enough materials available on record against the petitioner and hence, opposed for allowing the petition.

4. Heard the learned counsel on either side and perused the materials available on record.

5. Considering the arguable points of the petitioner and the facts and circumstances of the case, this Court is of the prima facie view that the sentence is to be suspended pending this Appeal.

6. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned I Additional Special Judge for NDPS Act cases, Madurai in C.C.No.22 of 2012 dated 23.08.2023 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 Judge for NDPS Act cases, Madurai.



CRL MP(MD) No.3812 of 2024

WEB COPY

ii) The petitioner shall appear and sign before the learned I Additional Special Judge 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 Judge for NDPS Act cases, Madurai.

7. Subject to the above conditions, this Petition is allowed.

sd/-
28/03/2024

/ TRUE COPY /

/04/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PKN

To

1.The I Additional Special Judge for NDPS Act Cases,
Madurai.



CRL MP(MD) No.3812 of 2024

2.The Inspector of Police,
Periyakulam Vadakarai Police Station,
Theni District.

3.The Superintendent,
Central Prison,
Madurai.

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

+1CC to M/s.S.MUTHULAKSHMI, Advocate, SR No.4078(I), dated 02/04/2024

ORDER
IN
CRL MP(MD) No.3812 of 2024
in
CRL A(MD) No.263 of 2024
Date :28/03/2024

ED/ /SAR- (10/04/2024) 5P / 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from
17/07/2023