



Crl.M.P.(MD) No.3519 of 2024

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

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

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

Crl.M.P.(MD) No.3519 of 2024
in
Crl.A(MD) No.251 of 2024

MURUGAN

... APPELLANT/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
KAZHUGUMALAI POLICE STATION,
TUTICORIN DISTRICT.
CRIME NO. 4/2018

... 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 passed by the learned II Additional Special court for NDPS Act cases, Madurai in C.C no. 152 of 2018 dt. 24.01.2024 pending disposal of the criminal appeal.

Prayer in Crl.A(MD) No.251 of 2024:

To calling for the records pertaining to the conviction sentence of 9 months rigorous imprisonment and to pay fine of Rs.10,000/- in default to undergo 3 months simple imprisonment passed in C.C.No.152 of 2018 on the file of the learned II Additional Special Court for NDPS Act Cases, Madurai dated 24.01.2024 and set aside the same as illegal by acquit this the appellant.

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.PRABU.M, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM,



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Government Advocate(Crl.side) on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

The petitioner has filed this Criminal Miscellaneous Petition praying this Court to suspend the sentence imposed against him by the learned Special Judge, II Additional Special Court of NDPS Act Cases, Madurai in C.C.No.152 of 2018 dated 24.01.2024 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. The case of the prosecution is that on 11.01.2018 at 11.00 a.m., the petitioner/accused was found in possession of 1.500 kgs. of 'Ganja' and he also abused the respondent police with filthy language and threatened by showing weapon. Thereafter, a case has been registered in Crime No.4 of 2018 against the petitioner for the offences punishable under Sections 8(c) read with Section 20(b)(ii) (B) of 'the Narcotic Drugs and Psychotropic Substances Act, 1985)' [hereinafter referred to as 'NDPS Act' for the sake of convenience and brevity] and Sections 294 (b), 353 and 307 of IPC. The Special Court has taken cognizance of the offences and the petitioner is found guilty for the offences punishable under Sections 8(c) read with Section 20(b)(ii)(B) of NDPS Act. The petitioner was convicted and sentenced to undergo 9 months Rigorous Imprisonment and to pay a fine amount of Rs.10,000/- with 3 months simple imprisonment in case of default. Aggrieved over the same, the



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petitioner has filed the present revision along with the suspension of sentence petition.

3. The learned counsel for the petitioner submitted that the prosecution has not examined the independent witnesses even though the alleged occurrence took place in the public area having several shops and all the witnesses are interested witnesses, which does not inspire confidence. He further submitted that the trial Court has failed to appreciate the fact that there are serious improvements in the prosecution witnesses and hence, the learned counsel prays for grant of suspension of sentence to the petitioner.

4. 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.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Crl. Side) appearing for the respondent and perused the materials available on record.



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6. Considering the facts and circumstances of the case and the limited period of sentence, this Court is of the prima facie view that the sentence is to be suspended, pending this Appeal.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Special Judge, II Additional Special Court of NDPS Act Cases, Madurai, in C.C.No.152 of 2018 dated 24.01.2024 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 Special Judge, II Additional Special Court of NDPS Act Cases, Madurai.

ii) The petitioner shall appear and sign before the learned Special Judge, II Additional Special Court of 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.



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

v) On breach of any of the aforesaid conditions, the learned Special Judge, II Additional Special Court of NDPS Act Cases, Madurai, is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the appellant released on bail by the learned Additional District Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560]; and

vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A of IPC.

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

sd/-
21/03/2024

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25/03/2024
Sub-Assistant Registrar (PA-II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

pkn

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TO

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

2. THE INSPECTOR OF POLICE
KAZHUGUMALAI POLICE STATION, TUTICORIN DISTRICT.

3. THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

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

+1 CC to M/s.M.PRABU, Advocate (SR-3542[I] dated 22/03/2024)

ORDER IN
Crl.M.P.(MD) No.3519 of 2024
in Crl.A(MD) No.251 of 2024
Date :21/03/2024

RK (25/03/2024) 6P / 6C

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