



CRL MP(MD) No.3978 of 2024

WEB COPY

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

Friday, the Twentieth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.3978 of 2024

in

CRL A(MD) No.277 of 2024

BASKARAN

... Appellant / Accused No.5

Vs

THE INSPECTOR OF POLICE
MATHICHIYAM POLICE STATION,
MADURAI.

(CRIME NO. 137 OF 2021)

... 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 against the petitioner in C.C No. 511 of 2021 dt. 13.03.2024 passed by the learned I Additional Special court for NDPS Act cases, Madurai and enlarge the petitioner on bail pending disposal of the above appeal.

Prayer in CRL A(MD) No.277 of 2024:

To call for the records in C.C.No.511 of 2021 dated 13.03.2024 passed by the learned I Additional Special Court for NDPS Act Cases, Madurai and to 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.G.KARUPPASAMY PANDIYAN, Advocate for the petitioner and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the



CRL MP(MD) No.3978 of 2024

Respondent, the Court made the following order:-

WEB COPY

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the I Additional Special Court for NDPS Act cases, Madurai and enlarge the petitioner/ A5 on bail pending disposal of the appeal.

2.The case of the prosecution brief:-

On 14/04/2021 the de-facto complainant when he was working as Head Constable, he received a secret information that in the place of occurrence Ganja has been sold to the public I.e., in the place of the occurrence namely near Mathina Mosque o the Vaigai Vadakarai Road, Madurai Town in a damaged building. After making entry in the General Diary, along with the Sub Inspector of Police and other team of police officials went to the place of occurrence at about 10.15 am. On seeing the police party, some of the accused persons tried to escape. They were identified by the police informer. They were apprehended. On enquiry, they revealed their name as Meenakshi Sundaram, Karthick @ Valukkai Karthick, Alva @ Uma Maheswaran, Dabar @ Sundara Mahalingam, Baskaran and PTR @ Palanivelrajan. On suspicion they were searched and at that time, found in possession of 15 Kgs of Ganja. Sampling was undertaken as per the procedure.

3.In the course of investigation made by the Investigating Officer, the involvement of this petitioner also came to light. Upon the above said occurrence, a



CRL MP(MD) No.3978 of 2024

WEB COPY

case in Crime No.137 of 2021 was registered by the respondent police for the offences under section 8(c) r/w 20(b)(ii)(C), and 29(1) of the NDPS Act. Thereafter, they were produced before the court along with the contraband and remanded to judicial custody.

4.After completion of the investigation, the respondent police filed a final report and the same has been taken cognizance in CC No.511 of 2021 by the 1st Additional Special Court for NDPS Act Cases, Madurai.

5.On the side of the prosecution, 3 witnesses were examined and 13 documents were marked. Apart from that, 6 material objects were exhibited. On the side of the accused, no oral and documentary evidence was adduced.

6.At the conclusion of the trial process, the trial court found the accused 1 to 3 and 5 guilty of the offence under section 8(c) r/w 20(b)(ii)(C) of the NDPS Act and sentenced them to undergo 10 years RI each and to pay a fine of Rs.1,00,000/- each in default to undergo 12 months SI each.

7.Challenging the conviction and sentence, this appeal is preferred by the appellant/A5. Pending appeal, this criminal miscellaneous petition was taken out by the petitioner/A5 seeking suspension of sentence stating that only based upon the confession statement of A1, A3 and A6, he was arrested; there is no charge for conspiracy; the Investigating Officer during the course of investigation has also



CRL MP(MD) No.3978 of 2024

WEB COPY

stated that theory of conspiracy was not investigated; On the very same set facts, A6 was acquitted, this petitioner is also standing in the very same footing; when there is no charge for conspiracy, conviction and sentence recorded against this petitioner is not proper.

8.Per contra, the learned Additional Public Prosecutor would submit that specific allegation made against the petitioner that he only collected the contraband from the Andhra Pradesh and selling the same. So according to him, the involvement of the petitioner was found during the course of the investigation and conviction has been recorded.

9.No doubt that only based upon the confession of A1, this petition has been implicated. But serious allegation has been made to the effect that he only transported the Ganja from Andhra Pradesh and stored in the place of occurrence, whether the benefit extended to A6 is available to the petitioner is a matter for consideration at the time of appeal.

10.Now we will go to the finding of the trial court regarding the involvement of this petitioner.

11.Perusal of the records shows that the petitioner has not cross examined the witnesses. Only later they filed a memo adopting the cross examination made by the co-accused. The adoption of the cross examination made by the co-accused by this



CRL MP(MD) No.3978 of 2024

petitioner has caused damage. When there is no specific cross examination about the particular fact of discovery during the course of the investigation implicating this petitioner, I am of the considered view that it requires thorough argument at the time of appeal. So, this is too a premature stage to consider the plea.

12. So, this criminal miscellaneous petition is dismissed. of course with liberty to the petitioner to argue the main appeal itself. There is a direction to the Registry is prepare the type set and list the matter after it is made ready.

sd/-
20/09/2024

/ TRUE COPY /

/10/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ER

To

1. The Additional District Judge,
I Additional Special Court for NDPS Act cases, Madurai.

2. The Inspector of Police,
Mathichiyam Police Station,
Madurai.

3. The Superintendent,
Central Prison, Madurai.



CRL MP(MD) No.3978 of 2024

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

Copy to:

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
CRL MP(MD) No.3978 of 2024
in
CRL A(MD) No.277 of 2024
Date :20/09/2024

ED/ JGB /SAR- (18/10/2024) 6P / 6C

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