



CRL MP(MD) No.4705 of 2024

WEB COPY

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

Tuesday, the Thirtieth day of April Two Thousand and Twenty Four

PRESENT

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

CRL MP(MD) No.4705 of 2024

in

CRL A(MD) No.366 of 2024

VELMURUGAN

... Appellant / Accused

Vs

THE INSPECTOR OF POLICE
NIB CID, THENI,
THENI DISTRICT.
(IN CRIME NO.141/2006.)

... 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 by the II Additional Special Court for NDPS Act Cases, Madurai passed in CC No.194/2007 dated 15/3/2024 and enlarge the Petitioner on bail pending disposal of the Criminal Appeal.

Prayer in CRL A(MD) No.366 of 2024:

To call for the records in C.C.No.194 of 2007 relating to the judgment dated 15.03.2024 passed by the II Additional Special Court for 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 M/s.J.JEYAARON RAJA, Advocate for the petitioner and of



CRL MP(MD) No.4705 of 2024

Mr.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-

This petition is filed to suspend the sentence imposed by the learned II Additional Special Judge, the II Additional Special Court for NDPS Act Cases, Madurai, in C.C.No.194 of 2007 dated 15.03.2024 and enlarge the petitioner on bail pending disposal of the main Criminal Appeal.

2. The case of the prosecution is that on 11.09.2006 at about 07.00 hours the respondent police conducted ride along with the police team on information received from the informant near Theni to KanaVilakku Road, Periyakulam Bypass road, the petitioner was found in possession of 7 kgs of Ganja, Thereafter, the petitioner was arrested on 11.09.2006. Thereafter, the respondent police registered the case against the petitioner in Crime No.141 of 2006 for the offences under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act. The respondent police, after completing the investigation, has laid a final report for the offences under Sections 2 8(c) r/w 20 (b)(ii)(B) of NDPS Act.

3. During trial, the prosecution has examined 3 witnesses as P.W.1 to P.W.3 and exhibited 11 documents as Ex.P.1 to Ex.P.11, and M.O.1 to M.O.3 were marked, whereas, the accused has neither adduced oral nor documentary evidence.

4. The learned II Additional Special Judge, upon considering the evidences



CRL MP(MD) No.4705 of 2024

WEB COPY

adduced and on hearing the arguments on both the sides, convicted the petitioner/accused for the offences under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act.

He was sentenced to undergo 1 year rigorous imprisonment for the offences under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act and to pay a fine of Rs.10,000/- (Rupees Ten Thousand Only), in default to undergo simple imprisonment for a further period of three months. Aggrieved over the same, the petitioner filed present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5. The learned counsel for the petitioner would submit that the respondent police falsely registered the case against the petitioner. Further, the trial Court has not considered that the provision under Section 55 of NDPS Act. As per the deposition of P.W.2 and P.W.3 admits that the property was seized by the respondent on 11.09.2006 and the same was produced after 17 days. There is no document was produced by the respondent for safe custody of the contraband seized on 11.09.2006 and there is no explanation for the said delay. Hence, he seeks suspension of sentence.

6. This Court has carefully considered the learned counsel for the petitioner and also perused the materials available on record.

7. 1. This Court considering the special circumstances of the case and is



CRL MP(MD) No.4705 of 2024

inclined to grant suspense of sentence.

WEB COPY

7.2. Apart from that, there are certain infirmities and inconsistencies in this case and also certain contradictions in material particulars brought to the knowledge of this Court and hence, this Court prima facie satisfied 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 and as such, this Court is of the considered view that the petitioner herein is confined in Central Prison, Madurai, hence, the petitioner is entitled to the relief of grant of suspension of sentence.

8. 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 II Additional Special Court for 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



CRL MP(MD) No.4705 of 2024

WEB COPY

(iii) The petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
30/04/2024

/ TRUE COPY /

06/06/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SBN

To

1.The Additional District Judge,
II Additional Special Court for NDPS Act Cases, Madurai.

2.The Inspector of Police,
NIB CID, Theni,
Theni District.

3.The Superintendent,
Central Prison, Madurai.

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

+1 CC to M/s.J.JEYA ARON RAJA, Advocate (SR-5104[I] dated 30/04/2024)



WEB COPY



CRL MP(MD) No.4705 of 2024

ORDER

IN

CRL MP(MD) No.4705 of 2024

in

CRL A(MD) No.366 of 2024

Date :30/04/2024

ED/ /SAR- (04/06/2024) 6P / 6C

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