



CRL MP(MD) No.5365 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Thursday, the Twenty Third day of May Two Thousand and Twenty Four
PRESENT

The Hon`ble Mrs.Justice S.SRIMATHY

CRL MP(MD) No.5365 of 2024

IN

CRL A(MD) No.394 of 2024

MAHESH SHANMUGAM @ MAHESH @ KALVAI MAHESH,

... PETITIONER/ APPELLANT/ ACCUSED NO.2

Vs

THE INSPECTOR OF POLICE

MUNNEERPALLAM POLICE STATION,

TIRUNELVELI DISTRICT.

(CRIME NO.526/2020).

... 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 execution of sentence by granting bail in C.C.No.147/2021 dated 30.01.2024 on the file of Learned I Additional Special Court for NDPS Act Cases, Madurai, Madurai District pending disposal of the above Criminal Appeal.

Prayer in CRL A(MD) No.394 of 2024 :

To admit this appeal on file, to call for the records from the lower court in C.C.No.147/2021 on the file of the Learned Ist Additional Special Court for NDPS Act Cases, Madurai District and set aside the judgement dated 30.01.2024 by acquitting the accused and by allowing the Appeal.

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.K.JEYAMOHAN, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-



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This Criminal Miscellaneous Petition has been filed to suspend the execution of sentence by granting bail in C.C.No.147 of 2021 dated 30.01.2024 on the file of Learned Ist Additional Special Court for NDPS Act Cases, Madurai, Madurai District pending.

2. The case of the prosecution is that the accused was found in illegal possession of 21 kgs of Ganja and hence FIR came to be registered in Crime No.526 of 2020 for the offences under Sections 8(c) r/w 20(b)(ii)(C) & 25 of NDPS Act.

3. The respondent police, after completing the investigation, has filed the final report and the case was taken on file in C.C.No.147 of 2021 and the same was pending on the file of the I Additional Special Court for NDPS Act Cases, Madurai (FAC).

4. During trial, the prosecution has examined 3 witnesses as P.W.1 to P.W.3 and exhibited 10 documents as Ex.P.1 to Ex.P.10. The accused adduced documentary evidence as Ex.D.1.

5. The learned Special Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 30.01.2024 finding the petitioner guilty for the offences under Sections 8(c) r/w 20(b)(ii)(B) of NDPS Act and sentenced him to undergo 4 years rigorous imprisonment and also ordered to pay a fine of Rs.40,000/-, in



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default, to under simple imprisonment for 5 months Challenging the above said conviction and sentence, the accused has preferred the present Criminal Appeal along with the above miscellaneous petition for suspension of sentence.

6. The learned counsel appearing for the petitioner would further submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

7. The learned Additional Public Prosecutor appearing for the respondent would object to suspend the sentence.

8. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and also perused the materials available on record.

9. The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains 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 entitled to the relief of grant of suspension of sentence.

10. Accordingly, the relief of suspension of sentence and bail is granted to the



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petitioner on the following conditions:-

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(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 1st Additional Special Court for NDPS Act cases, Madurai District;

(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

(iii) The petitioner shall appear before the concerned Court on all working days at 10.30 a.m., for a period of one month and thereafter appear before the concerned Court once in a month at 10.30 a.m., until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-

23/05/2024

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23/05/2024

Sub-Assistant Registrar (A.D.II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

MGA/ABR



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TO

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1 THE I ADDITIONAL SPECIAL JUDGE FOR NDPS ACT CASES,
MADURAI, MADURAI DISTRICT.

2 THE INSPECTOR OF POLICE, MUNNEERPALLAM POLICE STATION,
TIRUNELVELI DISTRICT.

3 THE SUPERINTEDENT, CENTRAL PRISON, MADURAI.

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

ORDER

IN

CRL MP(MD) No.5365 of 2024

IN

CRL A(MD) No.394 of 2024

Date :23/05/2024

RS//SAR-(23.05.2024) 5P 5C

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