



CRL MP(MD) No.5367 of 2024

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

Wednesday, the Sixteenth day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.5367 of 2024

in

CRL A(MD)No.599 of 2023

DHARMA

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
NIB CID POLICE STATION,
MADURAI DISTRICT.
(IN CRIME NO.75 OF 2019)

... RESPONDENT/RESPONDENT

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 I Additional Special Court for NDPS Act cases, Madurai (FAC) in C.C.No.21 of 2020 dated 30.06.2023 and grant bail to me till the disposal of the Criminal Appeal.

PRAYER in CRL A(MD)No.599 of 2023:

To call for the records and allow this appeal and acquit the appellant from the charges, by setting aside the impugned Judgment passed by the Learned I Additional Special Court for NDPS Act Cases, Madurai,(FAC) in C.C.No.21 of 2020 dated 30.06.2023.

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.B.N.RAJA MOHAMED, Advocate for the petitioner and of



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MR.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned I Additional Special Court for NDPS Act Cases, Madurai, passed in C.C.No.21/2020 dated 30.06.2023.

2. The learned counsel for the petitioner submitted that the petitioner, who is the second accused in this case, has been found guilty and convicted by the learned judge, for the offence under Section 8(c) read with 20(b)(ii)(C) and 25 of NDPS Act, ordered to undergo 10 years rigorous imprisonment and to pay a fine of Rs.1,00,000/- in default to undergo one year simple imprisonment. Set off under Section 428 Cr.P.C. was also ordered.

3. This petitioner moved Crl.M.P(MD)No.10586 of 2023 that was heard along with application moved by the first accused namely A.Karthick in Crl.M.P.(MD) No.14218 of 2023. An elaborate submission was made apart from that written argument was also submitted. After hearing both sides, a detailed order on merits was passed by the previous bench by order dated 22.02.2024. After that dismissal, this application was filed immediately within a period of three months namely on 21.05.2024, making the very same ground.



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4. Even at the time of argument I pointed to the learned counsel for the petitioner on record that whatever the grounds that was raised by him were already raised and decided, after change of the roster, the very same ground should not be made. But however learned counsel for the petitioner insisted that no recovery was made from this petitioner. Without knowledge that the vehicle carried the contraband he has been implicated ; The cell phone was also not recovered.

5. Learned Additional Public Prosecutor would contend that a detailed order has been passed as mentioned above. No new ground has been made out.

6. Unless, new grounds are made which were not available to the petitioner at the time of moving the first application, cannot be entertained. It is not the case of the petitioner that the grounds now raised were not available to him at the time of moving the first application. Change of roster and change of advocate will not give new grounds. So that sort of approach cannot be encouraged. Reading of the order of the previous Bench shows that, it has taken into every aspect of the matter that was argued and chose to dismiss the petition.



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7. So I find no change of circumstances and no new ground has been raised to entertain this petition. Since the typed set of papers are ready, the appellants are at liberty to argue the main appeal itself.

8. With the above direction, this Criminal Miscellaneous Petition is dismissed.

sd/-

16/10/2024

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/10/2024

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

PNN

TO

- 1 THE I ADDITIONAL SPECIAL JUDGE
FOR NDPS ACT CASES, MADURAI(FAC)
- 2 THE INSPECTOR OF POLICE
NIB CID POLICE STATION,
MADURAI DISTRICT.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



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ORDER
IN
CRL MP(MD) No.5367 of 2024
in
CRL A(MD)No.599 of 2023
Date :16/10/2024

SS/MMS/SAR- /28/10/2024/ 5P/5C

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