



Crl.M.P.(MD) No.9786 of 2023

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

Tuesday, the Twenty Seventh day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

Crl.M.P.(MD) No.9786 of 2023
in
Crl.A(MD)No.510 of 2023

S.MUTHURAJA @ KAKACHIRAJA

... PETITIONER/APPELLANT/
ACCUSED NO.7

Vs

THE INSPECTOR OF POLICE
USILAMPATTI TOWN POLICE STATION,
MADURAI DISTRICT.
CR.NO.359/2021

... 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 sentence imposed by the Principal Special Court for NDPS Act Cases Madurai passed in C.C.No.50/2022 dt 05.04.2023 and enlarge the petitioner on bail pending disposal of the criminal appeal and thus render justice.

Prayer in Crl.A(MD)No.510 of 2023:

To allow the above appeal and call for records set aside the conviction and sentence passed by judgment dated 05.04.2023 in C.C.No.50 of 2022 of the Principal Special Court, for EC & NDPS Act Case, Madurai and acquit the appellant herein of all the charges.



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

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence passed against him by the learned Additional District and Sessions Judge, Principal Special Court for E.C and NDPS Act Cases, Madurai in C.C.No.50 of 2022 dated 05.04.2023 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. It is submitted by the learned counsel for the petitioner that a case has been registered against the petitioner and other accused in Crime No.359 of 2021 on the file of the respondent/Inspector of Police, Usilampatti Town Police Station, Madurai District, for the offences punishable under Sections 8(c) r/w 20(b)(ii)(C), 29(1), 25 of the NDPS Act and the same was taken on file in C.C.No.50 of 2022 before the learned Additional District and Sessions Judge, Principal Special Court for E.C and NDPS Act Cases, Madurai. The petitioner is arrayed as A7. All the accused were convicted for the offence under Sections 8(c) r/w 20(b)(ii)(C), 29(1), 25 of the NDPS Act and sentenced to undergo rigorous imprisonment for 10 years each, and a fine of



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Rs.1,00,000/- each, in default, to undergo six months simple imprisonment.

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Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence. Learned counsel for the petitioner further submitted that the petitioner is suffered by a type of cancer known as ADENOCARCINOMA-PERIO-AMPULLARY REGION and already he underwent IV cycles of adjuvant Chemotherapy. At present, the patient wants expert opinion regarding the stage of the disease and also to undergo chemo-prophylaxis as a prevention method. Hence, he prays for suspension of sentence.

3. Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor has no serious objection to suspend the sentence as against the petitioner. He has also produced the Medical Report of the Convict Prisoner No.1694/the petitioner herein, issued by the Assistant Surgeon, Prison Medical Officer, Central Jail, Madurai dated 20.02.2024.

4. Heard the learned counsel on either side and perused the materials available on record.

5. As rightly contended by the learned counsel for the petitioner that the petitioner has to undergo treatment for cancer and also considering the facts and



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circumstances of the case, this Court is of the prima facie view that the sentence is to be suspended pending this Appeal.

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6. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Additional District and Sessions Judge, Principal Special Court for E.C and NDPS Act Cases, Madurai, in C.C.No.50 of 2022 dated 05.04.2023 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 Additional District and Sessions Judge, Principal Special Court for E.C and NDPS Act Cases, Madurai.

ii) The petitioner shall appear and sign before the learned learned Additional District and Sessions Judge, Principal Special Court for E.C and NDPS Act Cases, Madurai, on the first working day of every English calender 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.

iv) The petitioner shall furnish his residential address and mobile



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number to the Trial Court ie., learned Additional District and Sessions Judge, Principal Special Court for E.C and NDPS Act Cases, Madurai.

7. Subject to the above conditions, this Criminal Miscellaneous Petition is allowed. The Medical Report dated 20.02.2024 issued by the Assistant Surgeon, Prison Medical Officer, Central Jail, Madurai, is placed on record.

sd/-
27/02/2024

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28/02/2024
Sub-Assistant Registrar (PA- I/ AD-I)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PJL

TO

1. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PRINCIPAL SPECIAL COURT FOR E.C AND NDPS ACT CASES, MADURAI
2. THE INSPECTOR OF POLICE
USILAMPATTI TOWN 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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+1 CC to M/s.M.JEGADEESH PANDIAN, Advocate (SR-2429[I] dated 27/02/2024)

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ORDER

IN

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in

Crl.A(MD)No.510 of 2023

Date :27/02/2024

RK/SKN(28/02/2024) 6P / 6C

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