



CRL MP(MD) No.8117 of 2024

WEB COPY

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

Thursday, the Twelfth day of September Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN
CRL MP(MD) No.8117 of 2024
IN
CRL A(MD) No.667 of 2024

K.SHANMUGAVEL

... Petitioner/ Appellant

Vs

THE INSPECTOR OF POLICE
NIBCID
SIVAGANGAI
(CRIME NO.17/2021.)

... 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 imposed in order of conviction against the petitioner in CC No.59/2021 dt.30.09.2022 on the file of the Learned Addl District and Sessions Judge/Proceeding Officer Special Court for EC and NDPS Act Cases, Pudukottai and enlarge the petitioner on bail till the disposal of pending appeal.

Prayer in CRL RC(MD) No.667 of 2024:

To call for the records pertaining to the judgment dated 30.09.2022 in C.C.No.59 of 2021 on the file of the learned Additional District and Sessions Judge / Proceeding Officer, Special Court for EC & NDPS Act Cases, Pudukottai and to set aside the same, by allowing this criminal 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 M/s.M.SHEIK ABDULLAH, Advocate for the petitioner and of 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 Additional District and Sessions Judge/Presiding Officer Special Court for EC

<https://www.mhc.tn.gov.in/judis>



CRL MP(MD) No.8117 of 2024

and NDPS Act cases, Pudukottai, in CC No.59 of 2021, dated 30/09/2022

WEB COPY

2.The case of the prosecution brief:-

PW2-Dharmaraj was working as Special Sub Inspector of Sakkottai Police Station. Along with the police people, he was engaging in night petrol duty near Jeyamkondan Market, Pillaiyar Kovil Channel. On suspicion, they stopped a car bearing registration No.TN-55-BA-4959 and found four persons inside the car. One of the occupants were found to be Shanmugavel involving in a murder case. Other person told his name as Kannan. He was asked to open the dicky. They found bundles of Ganja leaves. Upon the above said occurrence, a case in Crime No.17 of 2021 was registered by the respondent police for the offence under section 8(c) r/w 20 (b)(ii)(C) and 25 of the NDPS Act. Thereafter, they were produced before the court along with the contraband and remanded to judicial custody.

3.After completion of the investigation, the respondent police filed a final report and the same has been taken cognizance in CC No.59 of 2021 by the Additional Sessions Judge/Presiding Officer, Special Court for EC and NDPS Act case, Pudukkottai.

4.On the side of the prosecution, 19 witnesses were examined and 22 documents were marked. Apart from that, 4 material objects were exhibited. On the side of the accused, no oral and documentary evidence was adduced.



CRL MP(MD) No.8117 of 2024

WEB COPY

5. At the conclusion of the trial process, the trial court found A1 guilty of the offences and sentenced him to undergo 10 years RI and to pay a fine of Rs.1,00,000/-, in default, to undergo 6 months SI each for the offence under section 8(c) r/w. 20(b)(ii)(C) and 25 of NDPS Act, 1985; and sentenced A2 to undergo 10 years and to pay a fine of Rs.1,00,000/- in default to undergo 6 months SI for the offence under section 8(c) r/w 20(b)(ii)(C) of the NDPS Act 1985.

6. Challenging the conviction and sentence, this appeal is preferred by the appellant/A1. Pending appeal, this criminal miscellaneous petition was taken out by the petitioner/A2 seeking suspension of sentence.

7. Heard both sides.

8. The learned counsel appearing for the petitioner/A2 would submit that the prosecution has not brought guilty of the accused beyond all reasonable doubt; There are so many contradictions in the prosecution case; Except the official witnesses, no other independent witness was examined on the side of the prosecution to show that this petitioner/A2 is also available in the Car where Ganja leaves alleged to have been seized or recovered.

9. Per contra, the learned Additional Public Prosecutor would submit that this petitioner was also present in the Car which smuggled or transported Ganja and he is also involved in the case and sufficient materials were placed before the trial court.



CRL MP(MD) No.8117 of 2024

So, no indulgence need be shown.

WEB COPY

10.Perusal of the records shows that this petitioner was arrested along with the contraband along with the co-accused. Whether it was a conscious possession and what was the link between them was established by the prosecution before the trial court. When the petitioner was arrested along with the contraband, I find that no substantial ground was advanced by this petitioner.

11.In the result, this criminal miscellaneous petition is dismissed.

sd/-

12/09/2024

/ 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 AND SESSIONS JUDGE /
PROCEEDING OFFICER,
SPECIAL COURT FOR EC AND NDPS ACT CASES,
PUDUKOTTAI.

2 THE INSPECTOR OF POLICE, NIBCID,
SIVAGANGAI.

3 THE SUPERINTENDENT,
CENTRAL JAIL PRISON, TRICHY.

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

<https://www.mmc.tn.gov.in/judis>



WEB COPY



CRL MP(MD) No.8117 of 2024

ORDER

IN

CRL MP(MD) No.8117 of 2024

IN

CRL A(MD) No.667 of 2024

Date :12/09/2024

RS/JGB/SAR-(17.10.2024) 5P 5C

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