



CRL MP(MD) No.11375 of 2023

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

Wednesday, the Tenth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.11375 of 2023

IN

CRL A(MD) No.697 of 2023

CHINNAIYAN

... PETITIONER/APPELLANT

Vs

THE INSPECTOR OF POLICE
THANJAVUR WEST POLICE STATION,
THANJAVUR DISTRICT.
(CRIME NO.1708/2020).

... RESPONDENT/RESPONDENT

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 against the petitioner in CC No.16/2021 dt.28/6/2023 on the file of the Learned Additional District Judge / Presiding Officer, Special Court under Essential Commodities Act, Thanjavur and enlarge the petitioner on bail pending disposal of above criminal appeal.

PRAYER IN CRL.A(MD).697/2023:

Pleased to call for the records relating to the judgment in C.C.No.16/2021 dated 28.06.2023 on the file of the Learned Additional District Judge / Presiding Officer, Special Court under Essential Commodities Act, Thanjavur and set aside the same and allow 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

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M/S.MANI ANANDH.P., 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 this Court to suspend the sentence imposed against him by the learned Additional District Judge/Presiding Officer, Special Court for Essential Commodities Act, Thanjavur in C.C.No.16 of 2021 dated 28.06.2023 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. The case of the prosecution is that on 08.11.2020 at 14.30 hours, the accused was found in possession of 1 kilo 200 grams of 'Ganja' illegally and therefore, a case has been registered against the petitioner in Crime No.1708 of 2020, on the file of the respondent/Inspector of Police, Thanjavur West Police Station, Thanjavur District, for the offences punishable under Sections 8(c) read with Section 20(b)(ii)(B) of 'the Narcotic Drugs and Psychotropic Substances Act, 1985)' [hereinafter referred to as 'NDPS Act' for the sake of convenience and brevity] and the same was taken on file in C.C.No.16 of 2021 on the file of the learned Additional District Judge/Presiding Officer, Special Court for Essential Commodities Act, Thanjavur. After full-fledged trial, the petitioner was convicted and sentenced under Sections 8(c) read with 20 (b) (ii)(B) of NDPS Act to undergo 5 years Rigorous Imprisonment and to pay a fine amount of Rs.20,000/- with one year Rigorous Imprisonment in case of default.



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Aggrieved over the same, the main appeal has been filed.

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3. The learned counsel for the petitioner submitted that the prime witness, who accompanied the defacto complainant at the time of search, arrest and seizure of contraband was not examined as a prosecution witness, which is fatal to the prosecution. Apart from that, the learned trial Judge failed to appreciate the fact that in the place of occurrence, there are several houses and shops, but no independent witnesses have been examined and hence, the learned counsel prays for grant of suspension of sentence to the petitioner.

4. Per contra, Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor would submit that there are enough materials available on record against the petitioner and hence, opposed for allowing the petition.

5. Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

6. Considering the arguable points of the petitioner and the facts and circumstances of the case, this Court is of the prima facie view that the sentence is to be suspended pending this Appeal.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Additional District Judge/Presiding Officer, Special Court for



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Essential Commodities Act, Thanjavur, in C.C.No.16 of 2021 dated 28.06.2023 alone is

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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 Judge/Presiding Officer, Special Court for Essential Commodities Act, Thanjavur.

ii) The petitioner shall appear and sign before the learned Additional District Judge/Presiding Officer, Special Court for Essential Commodities Act, Thanjavur, on the first working day of every English calendar 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 number to the Trial Court ie., learned Additional District Judge/Presiding Officer, Special Court for Essential Commodities Act, Thanjavur.

v) On breach of any of the aforesaid conditions, the learned Additional District Judge/Presiding Officer, Special Court for Essential Commodities Act, Thanjavur, is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been



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imposed and the appellant released on bail by the learned Additional District Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560]; and

vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A of IPC.

7. Subject to the above conditions, this Criminal Miscellaneous Petition is allowed.

sd/-
10/01/2024

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/01/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PKN
TO

1 THE ADDITIONAL DISTRICT JUDGE / PRESIDING OFFICER,
SPECIAL COURT UNDER ESSENTIAL COMMODITIES ACT,
THANJAVUR.

2 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

3 THE INSPECTOR OF POLICE
THANJAVUR WEST POLICE STATION,
THANJAVUR DISTRICT.

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

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



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+1 CC to M/s.R.MAHESWARAN, Advocate (SR-602[I] dated 11/01/2024)

ORDER
IN
CRL MP(MD) No.11375 of 2023
Date :10/01/2024

SA/SAR. /12.01.2024/6P/6C

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