



CRL MP(MD) No.8908 of 2024

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

Monday, the Twenty Third day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.8908 of 2024

in

CRL A(MD) No.707 of 2024

1 SIVA

2 ANAND

... PETITIONERS/ APPELLANTS/ ACCUSED NO.1 & 2

Vs

THE INSPECTOR OF POLICE
NIB-CID, MADURAI,
MADURAI DISTRICT.
(CRIME NO.35/2018)

... RESPONDENT/RESPONDENT/COMPLAINANT

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 on the petitioners by means of a judgment dated 25/6/2024 made in CC No.261/2018 on the file of the Honble 1st Additional Special Court for NDPS Cases, Madurai forthwith and thereby enlarge the petitioners on bail.

Prayer in CRL A(MD) No.707 of 2024 :

To call for the records in C.C.No.261 of 2018 dated 25.06.2024 on the file of the Hon'ble 1st Additional Special Court for NDPS Cases, Madurai and set aside the same.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.K.PRABAKARAN, Advocate for the petitioners and of MR.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-



CRL MP(MD) No.8908 of 2024

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Additional District Judge, I Additional Special Court for NDPS Act cases, Madurai, in CC No.261 of 2018 dated 25/06/2024 and enlarge the petitioners on bail, pending disposal of the Appeal.

2.The case of the prosecution in brief:-

PW2 was working as Inspector of Police NIB-CID, Madurai. On 21/03/2018 at about 05.00 hours, he received secret information. After complying the official formalities, along with the police team, he went to the place of occurrence along with the informer. At about 07.30 am, the informer identified the Hyundai Elentra Car bearing registration No.KL-07-AS-3. The police team intercepted the vehicle and the occupants of the Car disclosed their name as Siva and Anand. On suspicion, search was made and 5 boxes were found kept on the back side of the seat. On further enquiry, it was found 8 boxes containing 24 Kgs of ganja each. 9th box contains 20 Kgs of ganja. Total contraband is 212 Kgs. Sampling was undertaken as per the procedure. Upon the above said occurrence, a case in Crime No.35 of 2018 was registered by the respondent police for the offences 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



CRL MP(MD) No.8908 of 2024

and the same has been taken cognizance in CC No.261 of 2018 by the 1st Additional Special Court for NDPS Act Cases, Madurai.

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4.On the side of the prosecution, 3 witnesses were examined and 16 documents were marked. Apart from that, 30 material objects were exhibited. On the side of the accused, no oral and documentary evidence was adduced.

5.At the conclusion of the trial process, the trial court found the appellants guilty of the offence under section 8(c) r/w 20(b)(ii)(C) of the NDPS Act and sentenced them to undergo 12 years Rigorous Imprisonment and to pay a fine of Rs.1,00,000/-, in default, to undergo 12 months Simple Imprisonment.

6.Challenging the conviction and sentence, this appeal is preferred by the appellants. Pending appeal, this criminal miscellaneous petition was taken out by the petitioners seeking suspension of sentence.

7.Heard both sides.

8.The learned counsel appearing for the petitioners would submit that there is a clear violation of sections 42 and 52 of the NDPS Act by the prosecution; During the course of the investigation, it was not found out to whom the vehicle belongs; SIM Card and CDR report were not collected; Sampling was not properly undertaken and there was no stamp in the sample that was submitted to the Forensic Lab. According to him, in view of the discrepancies in the prosecution case, they are entitled for



CRL MP(MD) No.8908 of 2024

suspension of sentence.

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9.Per contra the learned Additional Public Prosecutor would submit that it is admitted by the accused themselves that the vehicle belongs to them; Proper sampling was taken and certificate was also issued by the concerned jurisdictional Magistrate; Since it was placed before the court as per the procedure, there is no question of violation of any procedure.

10.Reading of the evidence of PW2 does indicate that both the accused arrested red handed along with the contraband weighing about 212 Kgs. Unless the petitioners are able to establish before the court that the prosecution case was not established beyond all reasonable doubt, they are not entitled for any indulgence.

11.I find no prima facie ground in favour of the petitioners herein. If there is any violation of the provisions as mentioned above it can be taken up by the petitioners at the time of hearing the appeal. Those facts were also addressed by the trial court at the time of judgment.

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

sd/-

23/09/2024

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/10/2024

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



CRL MP(MD) No.8908 of 2024

TO

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

2 THE INSPECTOR OF POLICE, NIB-CID, MADURAI, MADURAI DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

ORDER IN
CRL MP(MD) No.8908 of 2024
in
CRL A(MD) No.707 of 2024
Date :23/09/2024

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