



CRL MP(MD) No.11231 of 2024

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

Friday, the Twenty Fifth day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.11231 of 2024

IN

CRL A(MD) No.75 of 2024

1 RAJESH

2 PRABAHARAN

... PETITIONERS/ APPELLANTS 1 & 3

Vs

THE INSPECTOR OF POLICE
NARCOTIC INTELLIGENCE BUREAU CID,
MADURAI.

(IN CRIME NO.97/2016.)

... 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 judgment passed in CC No.25/2017 on the file of Learned Principal Special Court for EC and NDPS Act Cases, Madurai by order dt.24.08.2023 as against the Petitioner/ Accused No.1 and 3.

Prayer in CRL A(MD) No.75 of 2024:

Pleased to call for the entire records and set aside the sentence and conviction imposed in C.C.No.25 of 2017 on the file of Learned Principal Court for EC & NDPS Act Cases, Madurai vide Judgment dated 24.08.2023.

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.NIRANJAN S. KUMAR, Advocate for the petitioner and of Mr.R.MEENAKSHI SUNDARAM,



CRL MP(MD) No.11231 of 2024

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 on the petitioner by the learned Principal Special Court for EC and NDPS Act Cases, Madurai, in C.C.No.25 of 2017 dated 24.08.2023.

2. Learned counsel for the petitioner would submitted that the petitioner, who is the third accused in this case, has been found guilty and convicted by the learned judge, for the offence under Section 8(c), 20(b)(ii)(c), 27(A) and 29(1) of Narcotic Drugs and Psychotropic Substance Act, 1985 and sentenced to undergo 10 years Rigorous imprisonment and to pay a fine of Rs.1,00,000/- and in default to undergo further period of 6 months rigorous imprisonment. Set off under Section 428 Cr.P.C. was also ordered.

3. The case of the prosecution is that on 04.06.2016, when P.W.2 (Special Sub Inspector of Police) was on duty, based on a secret information, they stopped the car of the accused Nos.1 to 3, found in possession of three white polythene bags each weighing 8 Kgs of Ganja, totally 24 Kgs of Ganja. The contraband was seized. After taking samples, followed by the procedures, a case was registered.

4. This is the second application filed by the petitioner seeking suspension of sentence on the ground that the petitioner is suffering from Tuberculosis and he has



to take treatment also out of the prison hospital. It is a first ground.

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5. A report is called for from the prison authority and the said report reads that as on date, now he is stable, taking insulin and anti hypertensive drugs. There is no TB Reactivation. So this report does indicate that there is no necessity for the petitioner to be enlarged on bail by suspending the sentence imposed by the trial Court, for taking treatment outside the prison hospital.

6. Apart from that he would submit that even on merits there is violation of Section 42 of NDPS Act. There is clear contradiction in the case of the prosecution as to the vehicle number, in which the defacto complainant travelled to the place of alleged occurrence. P.W.3, did not went along with the defacto complainant. So according to him, this contradiction between P.W.1 and P.W.3 creates doubt in the prosecution version. Similarly, there is a contradiction with regard to the consent letter obtained by the raiding team; Samples were not drawn by the learned Judicial Magistrate as per the settled principles. According to him, he is entitled for bail by suspending the sentence, even on merits.

7. Per contra, learned Additional Public Prosecutor would submit that the first application was decided on merits by rejecting the grounds made by the petitioner. There is no change of circumstances and so no interference is called for.

8. The order passed by the earlier Bench shows that elaborate discussion has



CRL MP(MD) No.11231 of 2024

been made over the merits of the matter. Therefore, I need not go into the issue once again. The contraband recovered is a commercial quantity. Unless the petitioner is able to convince this Court that the twin conditions enumerated under Section 37 of the NDPS Act is satisfied, he is not entitled for any relief. Except pointing out the above said contradiction and defects, no other substantial ground is made out by the petitioner warranting reconsideration of the suspension order.

9. For all these reasons, I find absolutely no reason to entertain this petition. This second application seeking suspension of sentence is filed without any change in circumstances.

10. Accordingly, this Criminal Miscellaneous Petition is dismissed.

sd/-
25/10/2024

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/11/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNN

To

1 THE PRINCIPAL SPECIAL JUDGE FOR EC & NDPS ACT CASES,
MADURAI.



CRL MP(MD) No.11231 of 2024

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
NARCOTIC INTELLIGENCE BUREAU CID,
MADURAI.

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

ORDER
IN
CRL MP(MD) No.11231 of 2024
IN
CRL A(MD) No.75 of 2024
Date :25/10/2024

ED/ JGB /SAR- (05/11/2024) 5P / 5C

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