



CRL MP(MD) No.17333 of 2023

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

Friday, the Twelfth day of January Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH
CRL MP(MD) No.17333 of 2023
in
CRL A(MD) No.632 of 2022

KATHIR RAJA

... PETITIONER/ APPELLANT/ ACCUSED NO.1

Vs

THE INSPECTOR OF POLICE
NIB - CID, THENI DISTRICT.
(CRIME NO.205/2017)

... 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 on the petitioner/appellant/accused no.1 namely Kathir Raja, S/o.Periyasamy passed by the learned I Additional Special Court for NDPS act cases, Madurai in CC.No.1/2019 dated 06.09.2022 and enlarge him on bail, pending disposal of the Criminal Appeal.

Prayer in CRL A(MD).632/2022 :

To call for the entire records pertaining to the judgment rendered by the I Additional Special Court for NDPS Act Cases, Madurai in C.C.No.1/2019 vide his judgment dated 06/09/2022 convicting the appellant under Section 8 (c) r/w 20(b) (ii) (B) of NDPS Act and sentenced him to undergo 5 Year R.I and to pay a fine of Rs.50,000/- and in default undergo 3 months S.I, and set aside the same and consequently acquit the appellant.

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

<https://www.mhc.tn.gov.in/judis> This Criminal Miscellaneous Petition has been filed to suspend the sentence



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passed in C.C.No.1 of 2019, dated 06.09.2022, on the file of the I Additional Special Court for NDPS Act Cases, Madurai, and enlarge the petitioner on bail, till the disposal of this Criminal Appeal.

2. The learned counsel for the petitioner would submit that the petitioner was convicted by the I Additional Special Court for NDPS Act Cases, Madurai, for the offence under Section 8(c) r/w 20(b)(ii)(B) of NDPS Act, and sentenced him to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.50,000/- in default to undergo, 3 months Simple Imprisonment. Aggrieved against the same, the petitioner filed the present appeal along with the suspension of sentence petition.

3. The learned counsel for the petitioner submitted that there is no corroboration between the evidence of prosecution witnesses and all the witnesses are official witnesses and no independent witnesses have been examined to prove the allegations levelled against the petitioner/accused. He further submitted that even according to the prosecution, the petitioner/accused was not present in the scene of occurrence 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.



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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 I Additional Special Court for NDPS Act Cases, Madurai, in C.C.No.1 of 2019 dated 06.09.2022 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 I Additional Special Judge for NDPS Act Cases, Madurai;

ii) The petitioner shall appear and sign before the learned I Additional Special Judge for NDPS Act Cases, Madurai, 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



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day.

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iv) The petitioner shall furnish his residential address and mobile number to the Trial Court i.e., learned I Additional Special Judge for NDPS Act Cases, Madurai.

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 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.

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

sd/-
12/01/2024

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12/01/2024

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

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

2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE, NIB CID, THENI DISTRICT.

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

+1 CC to M/s.M.JEGADEESH PANDIAN, Advocate (SR-730[I] dated 12/01/2024)

ORDER IN

CRL MP(MD) No.17333 of 2023

in

CRL A(MD) No.632 of 2022

Date :12/01/2024

RS//SAR-(12.01.2024) 5P 6C

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