



CRL MP(MD) No.2157 of 2024

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

Thursday, the Fifth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.2157 of 2024

IN

CRL A(MD) No.143 of 2024

AKIL

NOW CONFINED AT CENTRAL PRISON  
THIRUVANANTHAPURAM

... APPELLANTS/ACCUSED No.2

Vs

THE INSPECTOR OF POLICE  
ANNANAGAR POLICE STATION,  
MADURAI DISTRICT.  
CRIME NO.1816 OF 2020.

... 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 against the Petitioner in CC.No.116 of 2021 dt.5.4.2023 passed by the Learned I-Additional Special Court for NDPS Act Cases,Madurai and enlarge the Petitioner on bail pending disposal of the above Appeal.

PRAYER in CRL A(MD) No.143 of 2024:

To call for the records in C.C.No.116 of 2021 dated 05.04.2023 passed by the Learned 1<sup>st</sup> Additional Special Court for NDPS At Cases, Madurai and to set aside the same.



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**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.G.KARUPPASAMPANDIYAN, 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 against the petitioner/A2 in CC No.116 of 2023, dated 05/04/2023 passed by the Additional District Judge, I Additional Special Court for NDPS Act cases, Madurai and enlarge him on bail pending disposal of the Criminal Appeal.

**2.The case of the prosecution brief:-**

On 23/10/2020 at about 08.00 pm, PW1 received a secret information through the police informer as to the transport of the contraband. Along with the police team, they were making surprise check up at 08.40 am, near the Madurai Ring opposite to Saraswathy Timber area. At that time, they found a Innova White Colour Car bearing registration No.KL-01-AP-6659 coming in a suspicious manner. They tried to stop the vehicle. They stopped the vehicle and the occupant disclosed his name as Robert Victor. A search was made in the vehicle and they found 106 bags of Ganja weighing about 215.200 kgs. On further enquiry, he admitted that he is transporting Ganja from Andhra Pradesh. Sampling was undertaken as per the procedure.



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3. In the course of investigation made by the Investigating Officer, the involvement of this petitioner also came to light along with A1. Upon the above said occurrence, a case in Crime No.1816 of 2020 was registered by the respondent police for the offences under section 8(C) r/w 20(b)(ii)(C), 25 and 29(i) of the NDPS Act. Thereafter, they were produced before the court along with the contraband and remanded to judicial custody.

4. After completion of the investigation, the respondent police filed a final report and the same has been taken cognizance in CC No.116 of 2021 by the 1<sup>st</sup> Additional Special Court for NDPS Act Cases, Madurai.

5. On the side of the prosecution, 6 witnesses were examined and 16 documents were marked. Apart from that, 12 material objects were exhibited. On the side of the accused, no oral and documentary evidence was adduced.

6. At the conclusion of the trial process, the trial court found the appellant/A2 guilty of the offence under section 29(1) r/w 20(b)(ii)(C) of the NDPS Act and sentenced him to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.1,00,000/-, in default, to undergo 12 months Simple Imprisonment.



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

8.Heard both sides.

9.The learned counsel appearing for the petitioner/A2 would submit that no contraband was recovered from this petitioner; on the basis of the confession statement of A1, he has been wrongly implicated; According to the prosecution, Banking transaction took place between this petitioner and A1; But no documents were recovered or seized to link this petitioner; No forensic examination of the contraband was undertaken.

10.Per contra, the learned Additional Public Prosecutor would submit that the trial court on the basis of the presumptive information, recorded a finding of guilt against the accused. He is referring to the para 14 of the order.

11.Perusal of the records shows that only from A1, the contraband was recovered. As per the case of the prosecution, Banking transaction took place between this petitioner and A1. It indicates that there was transporting Ganja and the statement of accounts were seized. But no statement from them were recorded. It was further suggested to the Investigating Officer that this petitioner does not know Tamil. But in the confession statement, the signature in Tamil is available. For that,



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he would submit that the document was not sent for forensic examination. Para 25 of the judgment of the trial court deals about the Banking transaction between this petitioner and A1. The trial court also went on the ground that there is an admission on the part of the petitioner that he deposited Rs.10,000/- to the account of A1. So, according to trial court, it is for the accused to explain the reason for such deposit. Failure on his part would show that he financed A1.

12.Regarding the transaction, whether it is connected or not is a matter for consideration at the time of hearing the main appeal. So if the petitioner wants to argue the matter, he can argue the main appeal itself.

13.In the result, this Criminal Miscellaneous Petition is **dismissed**. Registry is directed to prepare the typed set, since the case is posted for final hearing on 03/10/2024.

sd/-  
05/09/2024  
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/09/2024  
Sub-Assistant Registrar  
( C.S. I / II / III / IV )  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

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TO  
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- 1 THE 1ST ADDITIONAL SPECIAL  
JUDGE FOR NDPS ACT CASES, MADURAI.
- 2 THE INSPECTOR OF POLICE  
ANNANAGAR POLICE STATION,  
MADURAI DISTRICT.
- 3 THE SUPERINTENDENT  
CENTRAL PRISON, THIRUVANANTHAPURAM.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER  
IN  
CRL MP(MD) No.2157 of 2024  
IN  
CRL A(MD) No.143 of 2024  
Date :05/09/2024

SS/VR/SAR- /27/09/2024/6P/5C

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