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Crl.M.P.No.1220 of 2025
in Crl.A.No.122 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.M.P.No.1220 of 2025 in Crl.A.No.122 of 2025

Damu @ Damodaran

S/o.Mathanagopal, No.24, SW Puram B-block 1st

Street, Purasaiwakkam, Chennai 600 007

.. Petitioner/accused

Vs.

The State Rep. by The Inspector Of Police

G5, Secretariat Colony Police Station, Chennai (Cr.No.347/2021)

Respondent/complainant

For Appellant(s):

M/s.M.Jaikumar, J.Pavithra, D.Nandhini

For Respondent(s): Mr.S.Sugendran, Additional Public Prosecutor

ORDER

The petitioner/accused has filed the present Criminal Appeal seeking to quash the judgment of conviction and sentence, passed against the accused by the Principal Special Court under EC and NPDS Act cases, Chennai in C.C.No.273 of 02022, dated 27.08.2024 and also prayed to acquit him.

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2. Pending the present appeal, the accused has filed the present criminal miscellaneous petition seeking to suspend the sentence imposed against the petitioner/accused by the said Court.

3. Heard both sides and perused the materials available on record.

4. The case of the prosecution is as follows:

(a) On 07.12.2021, around 7.30 a.m., PW.1 - K.Ganapathy, Sub-Inspector of Police, G.5 Secretariat Colony Police Station had received an information from the informant that the accused Damu @ Damodaran is going to sell Ganja near Otteri burial ground, Priklin Road. P.W.1 reduced the information under Ex.P-1 and submitted the same to his superior, i.e. P.W.4 Kamalakannan, Inspector of Police, and obtained permission from him and proceeded to the spot along with the Police party - P.W.2 Panuraj, and L.W.2/Packiyaraj, PC-51712 with NDPS kits. The Police party reached the spot and on identification made by the informant, P.W.1, along with the Police party, intercepted the suspected person on the spot. P.W.1 complied his right under Section 50 of the NDPS Act.



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(b) PW.1 requested P.W.2 and L.W.2 and the said Police Constable to be the witnesses for the search. P.W.1 issued search notice (Ex.P-2) to the accused, who consented to conduct the search by P.W.1 and his party. At the time of search, the suspected person produced black colour plastic bag. P.W.1 opened the same and found the contraband to be Ganja. He weighed the same as 1.250 Kgs. and he lifted two samples weighing 50 grams each for chemical analysis and put them separately in Polythene cover and stapled them and put them in pale green colour cover separately and tied the same with thread and had put a seal on them and then passed detailed labels on them.

(c) The samples were marked as Exs.S-1 and S-2. The remaining Ganja is marked as Ex.P-1.

(d) P.W.1 affixed his signature in a Mahazar⁴ and also obtained the signatures from Police witnesses. The seizure mahazar is marked as Ex.P-3. Cash of Rs.1800/- was also seized from the accused under the same mahazar/Ex.P-3. The remittance challan of the said cash is marked as Ex.P-4. Arrest intimation was also given, which is marked as Ex.P-4.

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(e) After completion of the seizure, arrest intimation was given, which is marked as Ex.P-5. P.W.1 arrested the accused and recorded the voluntary confession of the accused on the spot itself in the presence of the witnesses. Inspection was also made. The inspection memo is marked as Ex.P-6.

(f) Thereafter, P.W.1 reached the Police Station with the accused and seized the properties. Subsequently, P.W.1 submitted a report under Section 57 of the NDPS Act before his superior P.W.4 Kamalakannan, Inspector of Police, G.5 Secretariat Colony Police Station along with seized properties and also the accused. The report under Section 57 of the NDPS Act is marked as Ex.P-7.

(g) P.W.4 registered FIR in Crime No.347 of 2021 at about 11.30 hours. The FIR is marked as Ex.P-10. P.W.4 enquired P.Ws.1 and 2 and L.W.2 and recorded their statements. P.W.4 produced the accused before the IInd Metropolitan Magistrate, Egmore, Chennai, for remand along with the properties under Form-91 (Ex.P-11). The learned Magistrate remanded the accused to Judicial custody at about 4.45 p.m. on the same day and also ordered the properties (Ganja) to be produced before the Special Court.

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(h) Thereafter, P.W.4 submitted the case properties in A.No.154 of 2022 through the Police Constable on 07.03.2022 along with requisition to send the sample to the Laboratory for chemical analysis. The sample was sent to a Laboratory for chemical analysis. The sample was sent to the Laboratory by the Court on the same day.

(i) P.W.3 Chemical Examiner received the sample along with the Court's letter. P.W.4 examined P.W.3 and recorded her statement.

(j) After completion of investigation, P.W.4 filed the charge-sheet before the Special Court under Section 8(c) read with Section 20(b)(ii)(B) of the NDPS Act. Subsequently, the Special Court, after trial, convicted the petitioner and sentenced him to undergo the imprisonment as stated below. Aggrieved by the same, the accused has filed the appeal and the present application seeking for suspension of sentence.

5. As there are arguable points in the appeal, the learned counsel for the petitioner/accused prayed for suspension of sentence imposed on the petitioner/accused, who was convicted and sentenced to undergo rigorous



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imprisonment for five years and also was directed to pay fine of Rs.50,000/- for the offence under Section 8(c) read with Section 20(b)(ii)(B) of the NDPS Act, in default of payment of the fine thereof, the accused shall undergo further period of six months' rigorous imprisonment.

6. Taking into account the facts and circumstances of the case, this Court is of the view that the sentence imposed on the appellant/accused shall be suspended.

7. The learned Additional Public Prosecutor appearing for the respondent-Police submitted that one previous case is pending against the petitioner/accused.

8. Taking a lenient view on the accused, the sentence imposed on the petitioner/accused is directed to be suspended on the petitioner/accused depositing Rs.50,000/- (Rupees fifty thousand only) before the Principal Special Court under EC & NDPS Act cases, Chennai to the credit of C.C.No.273 of 2022 in CNR.No.TNCHOA-005755-2022 in Crime No.347 of 2021 on the file of the Inspector of Police, G.5 Secretariat Colony Police Station, and on payment of the said amount, the petitioner is directed to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees

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ten thousand only) with two sureties each for the like-sum, to the satisfaction of the trial Court. The petitioner/accused is directed to appear before the trial Court once in a week, i.e. every Monday at 10 am. without fail, till the disposal of the present Criminal Appeal. Failing to comply with any of the above conditions, the suspension of sentence granted hereby, shall stand revoked automatically, without any further reference to the Court.

9. Registry is directed to call for the records from the trial Court and thereafter, the Registry shall prepare the typed set of papers.

10. The Registry is also directed to list the main Criminal Appeal itself for hearing in the usual course.

14-02-2025

cs

To

1. The Inspector Of Police, G5, Secretariat Colony Police Station,
Chennai

(Cr.No.347/2021).

2. The Special Public Prosecutor for NDPS Cases, High Court, Madras.

3. The Superintendent, Central Prison, Puzhal, Chennai.

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P.VELMURUGAN, J

CS

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