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*Crl.M.P.No.11369 of 2024
in Crl.A.No.1036 of 2024*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.06.2025

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.M.P.No.11369 of 2024

in

Crl.A.No.1036 of 2024

Shibu Joy
S/o. Poullose Joy
Kizhakkethil House, Payyanaamon,
Elimullumplackal Post,
Pathan Amthitta, Kerala.

...Petitioner

Vs.

The State by its
The Inspector of Police,
NIB CID Kanchipuram.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed on the petitioner / appellant by the learned Special Judge, I Additional Special Court for Exclusive Trial of Cases under NDPS Act, at Chennai in C.C.No.136 of 2021 by judgment dated 24.02.2023 and enlarge the petitioner / appellant on bail pending disposal of the above criminal appeal before this Court.



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For Petitioner : Mr.P.Syed Abdul Mashood

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner to suspend the sentence imposed on the petitioner / appellant by the learned Special Judge, I Additional Special Court for Exclusive Trial of Cases under NDPS Act, at Chennai in C.C.No.136 of 2021 by judgment dated 24.02.2023 and enlarge the petitioner / appellant on bail pending disposal of the above criminal appeal before this Court.

2. The petitioner herein is the accused in C.C.No.136 of 2021 on the file of the Special Judge, I Additional Special Court for Exclusive Trial of Cases under NDPS Act, at Chennai. He was found guilty and has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1	Section 8(c) r/w. 20(b)(ii)(B) of NDPS Act	To undergo five years rigorous imprisonment and pay a sum of Rs.50,000/- as fine, in default to undergo rigorous imprisonment for five months.

Aggrieved by the same, a Criminal Appeal along with the present



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miscellaneous petition has been filed.

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3. The learned counsel for the petitioner/accused would submit that the petitioner has been imprisoned in jail for the past four years and three months. He would further submit there are arguable points available in the Criminal Appeal and the petitioner/accused has got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence imposed against the petitioner/accused may be suspended. He would submit that the petitioner is ready to abide the condition imposed by this Court.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondent/State raised serious objection for allowing this petition. Further, he would contend that the evidences recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. According to him, interference of this Court is not necessary in the findings arrived at by the trial Court.

5. Heard the learned counsel appearing on either side and also perused the materials placed on record.



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6. Considering the facts and circumstances of the case coupled with the quantum of punishment imposed upon the petitioner and also by considering the period of incarceration undergone by him, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions.

7. Accordingly, till the disposal of the Criminal Appeal the substantive sentence of imprisonment imposed by the learned trial Judge is alone suspended and bail is granted on the following conditions:

(a) The petitioner/accused is ordered to be released on bail, on his executing a separate 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 Special Judge, I Additional Special Court for Exclusive Trial of Cases under NDPS Act, at Chennai.

(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar



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Cards or Bank Pass Books to ensure their identities.

(c) The petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the Criminal Appeal and if he is not able to appear before the trial Court on the said day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

8. With the above directions, this Criminal Miscellaneous Petition is ordered.

19.06.2025

Index : Yes/No
Neutral citation : Yes/No
Internet : Yes
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

1. The Special Judge, I Additional Special Court for Exclusive Trial
of Cases under NDPS Act, at Chennai.

2. The Inspector of Police,
NIB CID Kanchipuram.

3. The Public Prosecutor,
Madras High Court,
Chennai.

4. The Superintendent,
Central Prison, Puzhal I
Chennai.

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