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Crl.M.P.No.17903 of 2024
in Crl.A.No.1589 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.01.2025

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THE HONOURABLE Mr.JUSTICE SUNDER MOHAN

Crl.M.P.No.17903 of 2024

IN

Crl.A.No.1589 of 2024

Muruganandam

.. Petitioner

Vs

1.State rep. by
The Deputy Superintendent of Police
NIB CID, Villupuram

2.The Sub Inspector of Police
NIB CID
Villupuram
(Crime No.28/2020)

.. Respondent

Criminal Miscellaneous Petition filed under Section 430 BNSS, to suspend the sentence imposed on the petitioner/A1 viz., Muruganandam, S/o.Palaniandi passed by the learned Special Court for NDPS Act Cases, Villupuram, in Spl.C.No.2/2021 dated 28.02.2024 and enlarge the petitioner on bail pending disposal of the above criminal appeal.

For Petitioner : Mr.M.Dinesh

For Respondent : Dr.C.E.Pratap
Government Advocate (Crl. Side)



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ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed on the petitioner by the learned Special Judge, Special Court for NDPS Act Cases, Villupuram, by judgment dated 28.02.2024, in Spl.C.No.2 of 2021, pending disposal of the above criminal appeal.

2. The petitioner, who is arrayed as accused No.1 in the above Special Case, was convicted and sentenced as follows:

<i>Offence under Section</i>	<i>Sentence imposed</i>
8(c) r/w 20(b)(ii)(c) of NDPS Act	To undergo RI for fourteen years and to pay a fine of Rs.1,00,000/-, in default to undergo SI for three years
8(c) r/w 20(b)(ii)(c) r/w 29(1) of NDPS Act	To undergo RI for fourteen years and to pay a fine of Rs.1,00,000/-, in default to undergo SI for three years
Sentences were ordered to run concurrently.	

Aggrieved by the same, the petitioner filed Crl.A.No.1589 of 2024 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

3. The learned counsel for the petitioner would submit that the



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prosecution had not established its case beyond reasonable doubt; that there are several infirmities in the evidence; that the petitioner is in custody from 02.09.2020; that the petition for suspension of sentence filed by A-2, who is similarly placed, was allowed by this Court by order dated 24.07.2024 in Crl.M.P.No.7794 of 2024 in Crl.A.No.598 of 2024 and prayed for suspension of sentence.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent and perused the counter affidavit.

5. Admittedly, the petitioner is in custody from 02.09.2020 and this Court, by order dated 24.07.2024, had suspended the sentence imposed on A-2 by making the following observations :

“5. Normally, offences under NDPS Act are offences against society and therefore, the Courts should be very circumspect while granting suspension of sentence. However, when the accused have been under incarceration for sometime and when there are points in the appeal, which favour the accused, then the Courts should not shy from granting suspension of sentence, as the liberty of the individual would be at stake if the appeal results in acquittal at a later point of time. In



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this regard, the decision of the Hon'ble Supreme Court of India in the case of ***Rabi Prakash Vs. The State of Odisha*** reported in ***2023 Live Law (SC) 533*** is of relevance and the material portion of the said judgment is quoted hereunder :-

“4. As regard to the two conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent – State has been duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and a half years in custody. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.”

6. Having regard to the fact that there are arguable points involved in the criminal appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also considering the fact that the quantity involved in this case is not commercial in nature and that the accused has been under incarceration nearly four years, applying the decision of the Hon'ble Supreme Court, I am of the considered opinion that the petitioner is entitled for the relief of suspension of sentence.”

Since the petitioner is similarly placed, this Court is inclined to suspend the sentence.

6. Accordingly, this criminal miscellaneous petition stands **allowed** and



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the sentence imposed on the petitioner is suspended till the disposal of the above Criminal appeal and the petitioner is ordered to be released on bail on the following conditions:

- (i) The petitioner is directed to deposit the entire fine amount to the credit of Spl.C.No.2 of 2021 on the file of the Special Court for NDPS Act Cases, Villupuram;
- (ii) The petitioner shall execute a bond for a sum of Rs.10,000/-, with two sureties, each for a like sum to the satisfaction of the learned Special Judge, Special Court for NDPS Act Cases, Villupuram;
- (iii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhaar card or Bank pass Book and mobile numbers to ensure their identity; and
- (iv) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if the petitioner is not able to appear before the trial Court on any 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.



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Issue order copy by 06.01.2025



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- To
- 1.The Special Court for NDPS Act Cases
Villupuram
 - 2.The Deputy Superintendent of Police
NIB CID, Villupuram
 - 3.The Sub Inspector of Police
NIB CID
Villupuram
(Crime No.28/2020)
 - 4.The Public Prosecutor
High Court, Madras



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SUNDER MOHAN, J.
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