



Crl.M.P.Nos.19480 & 21080 of 2025
in Crl.A.Nos.1608 & 1730 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.Nos.19480 & 21080 of 2025

in

Crl.A.Nos.1608 & 1730 of 2025

Ramaraj R ... Petitioner in Crl.M.P.No.19480 of 2025

D.Ramesh Kumar ... Petitioner in Crl.M.P.No.21080 of 2025

Vs.

State Represented by
The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
Regional Unit, Coimbatore,
(in F.No.VIII/48/02/2009-DRI,
Regional Unit, Coimbatore) ... Respondent in Crl.M.P.No.19480 of 2025

The State Represented by
The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
Regional Unit, Coimbatore,
(F.No.VIII/48/02/2009) ... Respondent in Crl.M.P.No.21080 of 2025

PRAYER in Crl.M.P.No.19480 of 2025: Criminal Miscellaneous Petition filed under Section 430 (1) of BNSS praying to suspend the sentence imposed on the petitioner/appellant/accused No.2 by the judgment of the Additional District Judge/Special Court under EC Act/NDPS Act Cases at Coimbatore in C.C.No.28 of 2012, dated 30.09.2025, pending disposal of the above criminal appeal.



Crl.M.P.Nos.19480 & 21080 of 2025
in Crl.A.Nos.1608 & 1730 of 2025

PRAYER in Crl.M.P.No.21080 of 2025: Criminal Miscellaneous Petition filed under Section 389 Cr.P.C. r/w Section 430 of BNSS praying to suspend the sentence imposed in C.C.No.28 of 2012 vide judgment of conviction dated 30.09.2025 passed by the learned Additional District Judge/Special Court under EC Act/NDPS Act Cases at Coimbatore and to enlarge the petitioner/appellant/3rd accused on bail pending disposal of the above criminal appeal.

In Crl.M.P.No.19480 of 2025

For Petitioner	: Mr.John Sathyan, Senior Counsel for Mr.Richardson Wilson
For Respondent	: Mr.N.P.Kumar Special Public Prosecutor

In Crl.M.P.No.21080 of 2025

For Petitioner	: Mr.G.Prabhakaran
For Respondent	: Mr.N.P.Kumar Special Public Prosecutor

COMMON ORDER

These Criminal Miscellaneous Petitions have been filed to suspend the sentence imposed on the petitioners, by judgment dated 30.09.2025, passed in C.C.No.28 of 2012, by the learned Additional District Judge/Special Court under EC Act/NDPS Act Cases at Coimbatore, pending disposal of the above criminal appeals and enlarge the petitioners on bail.

2.The petitioners arrayed as A2 & A3 before the Trial Court were convicted by the learned Additional District Judge / Presiding Officer, Special



Crl.M.P.Nos.19480 & 21080 of 2025
in Crl.A.Nos.1608 & 1730 of 2025

Court for EC and NDPS Act cases for the offences under Sections 9A(2) r/w 25A and 8 (c) r/w 29 (1) of NDPS Act, 1985 and sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.1,00,000/- in default, to undergo rigorous imprisonment for a period of one year each, for the offence under Section 9A(2) r/w 25A and they are convicted and sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.1,00,000/- in default, to undergo rigorous imprisonment for a period of one year each, for the offence under Section 8 (c) r/w 29 (1) of NDPS Act, 1985.

3.The gist of the prosecution case is that on 23.11.2009 on specific information from the Revenue Intelligence Department that 100 kgs of Ephedrine, a drug covered under the NDPS Act was concealed in the house of one K.Selvakumar (A1) in Labour Colony at Tiruppur, the officers of the respondents proceeded to search the house of A1. During the search they found some polythene bags with white coloured powdery substance packed in seven polythene bags believed to be Ephedrine, a controlled substance under the NDPS Act. Thereafter, the respondents conducted investigation and filed a complaint before the Court of the Essential Commodities and Special Judge for NDPS Act, Coimbatore.



Crl.M.P.Nos.19480 & 21080 of 2025
in Crl.A.Nos.1608 & 1730 of 2025

WEB COPY

4.The gist of the allegation as against the petitioners is that the petitioners had handed over the controlled substance to be placed in A1's house and hence, they are also guilty of the aforesaid offences.

5.Mr.John Sathyan, learned senior counsel appearing for A2 and Mr.G.Prabhakaran, learned counsel appearing for A3 would submit that the prosecution had not let in any evidence to hold the petitioners guilty of the aforesaid offences; that the Trial Court had relied upon the inadmissible statement to hold that the petitioners had supplied the controlled substances to A1; that the provisions of Sections 37 of NDPS Act would not be applicable since what was seized from the co-accused was only a controlled substance; that considering the period of incarceration; and that since they have raised substantial grounds in the appeals, the sentence imposed on the petitioners may be suspended.

6.Mr.N.P.Kumar, learned Special Public Prosecutor appearing for the respondent however would vehemently oppose the grant of suspension of sentence and would submit that the rigours of Section 37 would be applicable in view of the judgment of the Hon'ble Supreme Court in ***Dadu Alias Tulsidas Vs. State of Maharashtra*** reported in (2000) 8 SCC 437, that the first accused had examined himself as DW1 and marked the statements made by him in



Crl.M.P.Nos.19480 & 21080 of 2025
in Crl.A.Nos.1608 & 1730 of 2025

another case and the same has to be read in evidence; that it is not only based on confession that the Trial Court had rendered the finding of guilt and considering that the petitioners have been sentenced to ten years imprisonment and are in custody only for three months, the petitions for suspension of sentence may be dismissed.

7.This Court had perused the impugned judgment and the evidence of DW1. It is the specific case of DW1 that he was compelled to make such statement and infact, the prosecution had also cross examined DW1 and suggested to him that his deposition is contrary to his statement made to the respondent that it was the petitioners, who had handed over the controlled substance to him. Though DW1 had marked the statements said to have been given in another case in S.C.No.284/2010, in which he was an accused, this Court is of the view that the said statement is inadmissible as it was made under Section 67 of the NDPS Act. If DW1 had stated in his deposition that the petitioners had handed over the substance, then that possibly could have been taken into consideration. On the other hand, DW1 had confirmed that he was forced to make a statement that the petitioners handed over the controlled substance. Therefore, *prima facie* this court is of the view that the evidence of DW1 cannot come to the aid of the prosecution. Apart from that, admittedly,



Crl.M.P.Nos.19480 & 21080 of 2025
in Crl.A.Nos.1608 & 1730 of 2025

there is no other evidence except for the statements made under Section 67 of the NDPS Act. Therefore, this court is of the view that petitioners have made out a *prima facie* case for suspension of sentence.

8. Section 32A insofar as it restricts the power of the Appellate Court to suspend the sentence has been held to be unconstitutional by the Hon'ble Supreme Court. However, the Hon'ble Supreme Court held that suspension of sentence would be subject to the restrictions under Section 37 of NDPS Act. As observed earlier in the facts of the instant case, the petitioners have satisfied the twin conditions under Section 37 of the Act. In any case, since the substance that was seized from the co-accused is only a controlled substance, the rigours of Section 37 of NDPS Act also would not be applicable. Hence for all these reasons, this court is inclined to suspend the sentence imposed on the petitioners.

9. Accordingly, these criminal miscellaneous petitions stand **allowed** and the sentence imposed on the petitioners is suspended till the disposal of the above criminal appeals and the petitioners are ordered to be released on bail on the following conditions:

- (i) The petitioners shall execute a bond for a sum of Rs.50,000/-, with two sureties, each for a like sum to the satisfaction of the learned



WEB COPY



Crl.M.P.Nos.19480 & 21080 of 2025
in Crl.A.Nos.1608 & 1730 of 2025

Additional District Judge/Special Court under EC & NDPS Act
Cases, Coimbatore;

(ii)The petitioners 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 Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and

(iii)The petitioners 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 they are not able to appear before the Trial Court on any day, they 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.

16.12.2025

sli

To

1.The Additional District Judge/Special Court under EC & NDPS Act Cases, Coimbatore;

2.The Central Prison, Coimbatore.

3.The Senior Intelligence Officer,
Directorate of Revenue Intelligence,
Regional Unit, Coimbatore,

4.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.M.P.Nos.19480 & 21080 of 2025
in Crl.A.Nos.1608 & 1730 of 2025

SUNDER MOHAN, J.

sli

Crl.M.P.No.19480 & 21080 of 2025
in
Crl.A.No.1608 & 1730 of 2025

16.12.2025