



Crl.M.P.(MD)No.1063 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.1063 of 2024

in Crl.A.(MD)No.80 of 2024

Shahanas,
S/o.Shahul Hameed,
Chanivilaputhen Veedu,
Gandhi Nagar - 66,
Arunootimangalam, Mangad Post
Kollam District, Kerala State.

Petitioner(s)

versus

State thro' The Inspector of Police,
Kadamalaikundu Police Station,
Theni District.

Respondent(s)

For Petitioner(s):

Mr.D.Saravanan
Advocate
for M/s.T.Sathya Selvi

For Respondent(s):

Mr.T.Senthilkumar,
Additional Public Prosecutor

ORDER

The petitioner is the 4th accused in C.C.No.157 of 2021 on the file of the I



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Additional Special Court for NDPS Act Cases, FAC, Madurai. He was tried along with four other accused for the offence under Section 8(c) r/w.20(b)(ii)(C) and 27(A) of NDPS Act. The case as against the 1st, 3rd and 5th accused were split up in C.C.No.302 of 2017 and 171 of 2023. In conclusion of trial, the trial Court, by its Judgment dated 07.06.2023, found the petitioner guilty for the offence under Section 8(c) r/w. 20(b)(ii)(C) of NDPS Act and convicted and sentenced him to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.1,00,000/-, in default, to undergo simple imprisonment for a further period of one year. Challenging the same, the petitioner has preferred an appeal in Crl.A.(MD)No.80 of 2024 and the same has been admitted by this Court on 01.02.2024. The petitioner has also moved this petition seeking to suspend the sentence imposed by the trial Court.

2. The main contention of the learned counsel for the petitioner is that the petitioner is similarly placed as that of the 1st accused, who was tried in C.C.No.302 of 2017 and he was acquitted by the trial Court by its Judgment dated 18.06.2021. However, the petitioner, who is in the similar footing, was convicted by the trial Court, by its Judgment dated 07.06.2023 in C.C.No.157 of 2021. The learned counsel further submits that the seized contraband was produced before the Court with delay and there was no independent witness for the seizure mahazar. He has also



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pointed out that there is some difference in the quantity of the sample, which has been seized from the place of occurrence and subjected for chemical analysis. He further submits that the contraband has been recovered from a Car bearing Reg.No.KL 01 BP 2369, however, the owner of the vehicle has not been examined during the trial.

3. The learned Additional Public Prosecutor raised a preliminary objection for suspending the sentence by referring the previous conduct of the petitioner that the petitioner, who was released on statutory bail on 05.06.2017, evaded the trial and absconded on 07.05.2021, when the case was listed for Judgment by the trial Court and therefore, the trial Court split up the case as against the petitioner and three others in C.C.No.157 of 2021 and proceeded as against the first accused in C.C.No.302 of 2017 and acquitted the first accused by its Judgment dated 18.06.2021. According to the learned Additional Public Prosecutor, the petitioner is a resident of Kerala and he was absconding for 1 ½ years when the case was listed for Judgment and thereafter, the petitioner was secured with great difficulty only on 14.10.2022. Thereafter, the case was proceeded as against the petitioner in C.C.No.157 of 2021 and he was convicted and sentenced by the trial Court, by its Judgment dated 07.06.2023. He further submits that the 3rd and 5th accused are yet to be secured and the trial as against them is still pending in C.C.No.171 of 2023.



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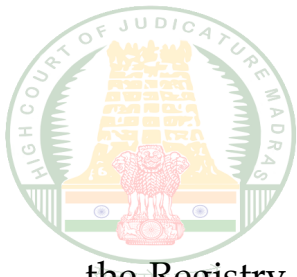
4. The learned Additional Public Prosecutor has also pointed out that the 1st accused was not arrested along with other accused and the case of the prosecution was that he absconded from the place of occurrence. Therefore, the first accused was tried separately by the trial Court and he was acquitted from the charges. The grounds, which are available for the first accused, cannot be applicable to the case of the petitioner.

5. This Court considered the rival submissions and perused the materials placed on record.

6. Though the learned counsel for the petitioner has raised certain points as to the manner in which he was convicted, this Court is not inclined to consider all these points, considering his previous conduct of absconding, when the case was listed for Judgment. The fact remains that the petitioner was initially granted statutory bail on 05.06.2017 and thereafter, he evaded the trial and absconded for 1 ½ years and therefore, the trial has been split up as against the petitioner. It is also reported that the petitioner is hailing from Kerala State and if he is released on bail by suspending the sentence, he will not be available for the disposal of the appeal. Therefore, this Court is not inclined to suspend the sentence to the petitioner.

7. Accordingly, this Criminal Miscellaneous Petition is dismissed.

8. Since this Court refuses to suspend the sentence imposed on the petitioner,



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the Registry is directed to prepare the typed set of papers and list the matter in the
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first week of June 2025.

sd/-
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/05/2025

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

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TO

1 THE I ADDITIONAL SPECIAL JUDGE
FOR NDPS ACT CASES, FAC, MADURAI.

2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
KADAMALAIKUNDU POLICE STATION, THENI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR MADURAI BENCH OF MADRAS
HIGH COURT, MADURAI.

copy to
THE SECTION OFFICER, CRIMINAL SECTION, MADURAI BENCH OF MADRAS
HIGH COURT, MADURAI.

ORDER
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in
Crl.A.(MD)No.80 of 2024
Date :09/04/2025



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NBF/SAR/08.05.2025 6P/6C

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

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