



Crl.M.P.(MD)No.2066 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.2066 of 2024

in Crl.A.(MD)No.134 of 2024

Sivasamy,
S/o.Rasu Thevar,
Kammalapatti,
Usilampatti Taluk,
Madurai District.

Petitioner(s)

versus

State rep. by
The Inspector of Police,
Tirumangalam Town Police Station,
Madurai District.

Respondent(s)

For Petitioner(s):

Mr.S.Muniyandi
Advocate

For Respondent(s):

Mr.P.Kottaichamy,
Government Advocate (Crl. Side)

ORDER

The petitioner is the first accused in C.C.No.18 of 2012 on the file of the I Additional Special Court for NDPS Act Cases, Madurai. After the trial, the trial Court, by its Judgment dated 28.08.2023, found the petitioner guilty for the offence under Section 8(c) r/w. 20(b)(ii)(B) of NDPS Act and convicted and sentenced him to undergo 3 years rigorous imprisonment and to pay a fine of Rs.15,000/-, with the



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default sentence of two months simple imprisonment. Challenging the Judgment of conviction and sentence, the petitioner has preferred an appeal in Crl.A.(MD)No.134 of 2024 along with the petition for suspension of sentence. The Criminal Appeal was admitted by this Court on 20.02.2024.

2. The learned counsel appearing for the petitioner submits that in this case, the mandatory provisions have been violated by the prosecution. Further, there was a delay in producing the contraband before the lower Court and the prosecution has not explained sufficient reasons for the delay in producing the contraband. He further submits the respondent has not taken samples in the presence of Magistrate, which shows that the respondent has not followed the due process of law. He further submits that the sentence period is only 3 years and the petitioner is in jail from the date of Judgment and as on date, he has completed the sentence period for nearly 17 months. Since the petitioner is having certain arguable points in this appeal, he seeks for suspension of sentence.

3. The learned Additional Public Prosecutor has raised serious objection that apart from this case, the petitioner is also involved in 59 cases. The learned Additional Public Prosecutor, by referring to para-25 of the Judgment of the trial Court, further submits that though the quantity of contraband involved in this case is 28 kgs. of ganja, the trial Court has treated the case of the petitioner as that of the



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intermediate quantity without any reasons and has imposed a lesser punishment.

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Therefore, he opposed for grant of suspension of sentence.

4. In reply, the learned counsel appearing for the petitioner submits that all the previous cases registered against the petitioner are under the Tamil Nadu Prohibition Act and that too for statistical purpose. He further submits that the petitioner's son, who is working in Indian Army and an (*)Ex-Ward Member of Kalappanpatti Village Panchayat have agreed to stand as sureties for the petitioner, with an undertaking that the petitioner will not involve any other offence in future and he will be available in the Village till the disposal of the appeal. The learned counsel has also filed an affidavit to that effect.

5. Considering the period of incarceration and also considering the fact that the petitioner is having certain arguable points in this appeal and as there is no likelihood of listing the criminal appeal for final hearing in the near future, this Court is inclined to suspend the sentence imposed on the petitioner.

6. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioner is ordered to be enlarged on bail on the following conditions:

(i) The petitioner shall execute a bond for Rs.1,00,000/- (Rupees one lakh only)

with two sureties each for a like sum to the satisfaction of the I Additional Special



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Court for NDPS Act Cases, Madurai. Out of the two sureties, one surety shall be Ranjithkumar, son of the petitioner, who is working in Indian Army and another surety shall be Bose, (*)Ex-Ward Member of Kalappanpatti Village Panchayat to ensure the petitioner's availability in the Village till the disposal of the appeal proceedings.

(ii) The sureties shall file an undertaking affidavit before the concerned Court as well as before the respondent Police Station that the petitioner will not involve in any other offence in future.

(iii) The petitioner shall appear before the trial Court daily at 10.30 a.m. till the disposal of the appeal proceedings.

sd/-
03/03/2025

(*)CORRECTED AS PER THE
ORDER OF THIS HON'BLE
COURT IN CRL MP(MD) 9839 of
2025 in CrI.A(MD) No.134 of 2024
DATED 28.07.2025 BY BPJ.

/ TRUE COPY /

/2025

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

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TO

TO BE SUBSTITUTED WITH THE ORDER
DATED 03.03.2025 ALREADY DESPATCHED.



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

2 THE INSPECTOR OF POLICE
THIRUMANGALAM TOWN POLICE STATION,
MADURAI DISTRICT

3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.

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

+1 CC to M/s.S.MUNIYANDI, Advocate (SR-2302[I] dated 03/03/2025)

ORDER
IN
CRL MP(MD) No.2066 of 2024
in Crl.A.(MD)No.134 of 2024
Date :03/03/2025

NBF/SAR- /04/08/2025/ 5P/6C
SS/SAR- /05/03/2025/ 5P/6C

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