



Crl.M.P.(MD)No.2167 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.04.2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)Nos.2167 and 2132 of 2024

in Crl.A.(MD)Nos.144 and 139 of 2024

Crl.M.P.(MD)No.2167 of 2024

1. Muneeswaran,
S/o.Pandi,
No.47-A, 1st Block,
Thideer Nagar,
Baskaradoss Nagar,
Madurai.
2. Ibrahim Sha,
S/o.Kaja Maideen,
No.51, Alavudeen Thoppu,
Thideer Nagar, Madurai.
3. Sivabalakrishnan @ Mookan Bala,
S/o.Ramesh,
No.81, 2nd Block,
South Main Street,
Baskaradass Nagar,
Madurai.
4. Sudharsan @ Vellaiyan,
S/o.Sivakumar,
No.22, J Block,
TNHB Colony,
Melavasal, Madurai.

Petitioner(s)

versus



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The State represented by its
The Inspector of Police,
Thideer Nagar Police Station,
Madurai.

Respondent(s)

For Petitioner(s):
Mr.M.Jegadeesh Pandian
Advocate

For Respondent(s):
Mr.T.Senthilkumar,
Additional Public Prosecutor

Crl.M.P.(MD)No.2132 of 2024

Chellapandi,
S/o.Muniyandi,
Ganga Kaveri Apartment,
New Ellis Nagar,
Madurai.

Petitioner(s)

versus

The State represented by its
The Inspector of Police,
Thideer Nagar Police Station,
Madurai.

Respondent(s)

For Petitioner(s):
Mr.M.Jegadeesh Pandian
Advocate

For Respondent(s):
Mr.T.Senthilkumar,
Additional Public Prosecutor



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COMMON ORDER

The petitioners are accused 1 to 5 in Crime No.194 of 2021 on the file of C-1, Thideer Nagar Police Station. They were arrested on 09.06.2021 and a case was registered against them for the offence under Section 8(c) r/w. 20(b)(ii)(C) of NDPS Act. After the investigation, final report was also filed as against the accused persons and the same was taken on file in C.C.No.319 of 2021 on the file of the I Additional Special Court for NDPS Act Cases, Madurai. In conclusion of trial, the trial Court, by its Judgment dated 24.04.2023, found the petitioners guilty and convicted and sentenced them to undergo rigorous imprisonment for 10 years each and to pay a fine of Rs.1,00,000/- each, in default, to undergo simple imprisonment for a further period of one year each. Challenging the Judgment of conviction and sentence, the Accused Nos.1, 2, 3 and 5 have filed an appeal in Crl.A.(MD)No.144 of 2024 and Accused No.4 filed a separate appeal in Crl.A.(MD)No.139 of 2024. Both the appeals have been admitted by this Court on 19.02.2025. The accused Nos.1, 2, 3 and 5 have also filed a petition to suspend the sentence imposed by the trial court in Crl.M.P.(MD)No.2167 of 2024 and the 4th accused has filed a petition to suspend the sentence imposed by the trial Court in Crl.M.P.(MD)No.2132 of 2024. Since both the appeals are arising out of the conviction and sentence imposed by the trial Court in C.C.No.319 of 2021,



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both the petitions are taken up together and disposed of by this common order.

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2. The 1st accused was arrested on 09.06.2021 at about 9.00 a.m. by the Sub Inspector of Police and recovery of 1 kg of ganja was made at about 11.00 a.m. A confession statement was recorded from the 1st accused and based on that confession statement, the respondent Police proceeded to the house of the 2nd accused and arrested the 2nd accused around 12.30 p.m. and recovered 23 kgs. of ganja from him. The accused Nos.3, 4 and 5 were also arrested with the 2nd accused that they were present in the house of the second accused at the time of arrest on 09.06.2021 at about 12.30 p.m. All the accused were tried together that they were in conscious possession of ganja of commercial quantity. The trial Court found the accused persons guilty, convicted and sentenced them as stated supra.

3. The learned counsel appearing for the petitioners submits that the 1st accused was in possession of 1 kg. of ganja only. The remaining quantity of ganja to an extent of 23 kgs. was recovered from the 2nd accused. Therefore, he is not pressing the petition for the 2nd accused for the present. He has also made an endorsement to that effect.

4. The learned counsel for the petitioners has insisted to grant suspension of sentence to other accused that the 1st accused was in possession of 1 kg. of ganja and with regard to other accused, namely, accused Nos.3 to 5, they were not in possession

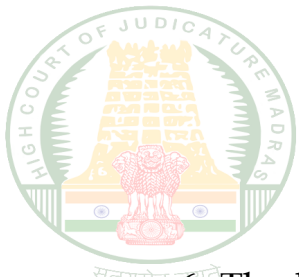


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of ganja and they have been arrested as if they have been found in the house of the 2nd accused. Though the respondent Police stated that there is a nexus between the accused Nos.3 to 5 with the 2nd accused, they have not placed any material before the trial Court as to the nexus between the 2nd accused with other accused. The learned counsel, by referring to the mahazar of recovery from the 2nd accused, submits that this recovery was made only from the 2nd accused. In the event, if they were in joint possession, then, the respondent Police would have collected the signature of other accused in the mahazar.

5. With regard to the 4th accused, the learned counsel submits that the friend of the 4th accused was murdered in the year 2018. The respondent Police has insisted him to be a witness in that case. However, since he refused to be a part of witness in the said criminal case, a criminal case was foisted against the 4th accused in Crime No.449 of 2018. The 4th accused has agitated the same before the State Human Rights Commission. The State Human Rights Commission has taken the complaint as against the respondent Police in S.H.R.C No.8146 of 2018. Since the 4th accused has registered a case as against the Police Officer before the State Human Rights Commission, this case in Crime No.194 of 2021 was foisted against him as if he was also found along with the 2nd accused at the time of recovery of ganja from the 2nd accused.

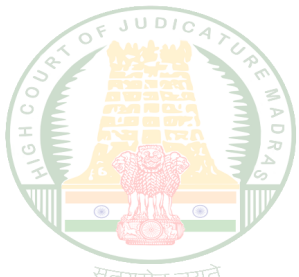


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6. The learned counsel has also referred to the earlier bail order passed by this Court in Crl.O.P.(MD)No.13953 of 2021 dated 02.11.2021 and submits that this Court, after satisfying with the case of the 4th accused, has granted bail to the 4th accused by order dated 02.11.2021. The learned counsel further submits that the 4th accused has attempted to establish his case by examining official witnesses and he has also filed an application to summon the official witnesses for examination, however, the same was rejected by the trial Court. The 4th accused has examined his mother and also produced documents, namely, Exs.D1 to D4 before the trial Court to establish his case on the possibility of his arrest from the house of the 2nd accused. However, the evidence of his mother was ignored by the trial Court that the petitioner has failed to examine official witnesses to substantiate his case. The learned counsel further submits that the 4th accused is in jail for the past one year. The accused Nos.1, 3 and 5 are in jail from the date of arrest and they have already undergone the substantial portion of the sentence period. He further submits that the petitioners are having some arguable points in the appeal. Therefore, he seeks to suspend the sentence imposed by the trial Court.

7. The learned Additional Public Prosecutor submits that all the petitioners are notorious criminals, having several antecedent and that apart, recovery was made from the 1st accused and based on the confession statement of the 1st accused, further



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recovery was made from the 2nd accused. The total quantity in this case is 24 kgs. of ganja. The learned Additional Public Prosecutor further submits that the 1st accused is having ten previous cases, out of which, four cases are under Section 307 IPC and two cases are robbery cases and two cases are theft cases.

8. Admittedly, there is no recovery from accused Nos.3 to 5. They were said to be present along with the 2nd accused in his house, at the time of arrest and recovery. The petitioner's counsel has established the case with regard to the 4th accused that he was not present in the house of the 2nd accused at the time of arrest on 09.06.2021 at 12.30 p.m. This Court has also elaborately considered the same while granting bail to the 4th accused during the trial. In fact, the 4th accused has attempted to project his case by examining the official witnesses which were rejected by the trial Court. Since there is no recovery from the 3rd accused to 5th accused, this Court is inclined to suspend the sentence imposed on the accused Nos.3 to 5.

9. Considering the fact that there was a recovery from the 1st accused, which also led to the recovery of the remaining ganja from the 2nd accused and also considering the quantity of ganja and also considering the antecedent as against the 1st accused, this Court is not inclined to suspend the sentence imposed on the 1st accused. Therefore, insofar as the 1st accused/1st petitioner in Crl.M.P.(MD)No.2167 of 2024 is concerned, the petition is dismissed. Insofar as the 2nd accused/2nd



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petitioner in Crl.M.P.(MD)No.2167 of 2024 is concerned, the petition is dismissed as
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withdrawn, in view of the endorsement by the learned counsel for the petitioner.

10. Accordingly, the substantive sentence of imprisonment imposed on the 3rd and 5th accused/petitioners 3 and 4 in Crl.M.P.(MD)No.2167 of 2024 and 4th accused/petitioner in Crl.M.P.(MD)No.2132 of 2024 alone is suspended pending disposal of the criminal appeal and the above petitioners are ordered to be enlarged on bail on the following conditions:

(i) The petitioner in Crl.M.P.(MD)No.2132 of 2024 and the petitioners 3 and 4 in Crl.M.P.(MD)No.2167 of 2024 shall execute a bond for Rs.1,00,000/- (Rupees one lakh only)each, with two sureties each for a like sum to the satisfaction of the I Additional Special Court for NDPS Act Cases, Madurai. Out of the two sureties, one surety must be a Government Servant and another surety must be a respectable person in their locality, either elected people representatives or the persons who are having permanent business establishments. The sureties shall file an affidavit before the respondent Police, by ensuring that the petitioners will not indulge in any other offence in future and they will be available for appeal.



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(ii) The petitioner in Crl.M.P.(MD)No.2132 of 2024 and the petitioners 3 and 4 in Crl.M.P.(MD)No.2167 of 2024 shall pay 50% of the fine amount imposed on them and on payment of fine amount only, the learned Judge shall accept the sureties and release them on bail.

(iii) The petitioner in Crl.M.P.(MD)No.2132 of 2024 and the petitioners 3 and 4 in Crl.M.P.(MD)No.2167 of 2024 shall also file an undertaking affidavit before the respondent Police that they will not indulge in any other offence in future and they will be available for appeal.

(iv) The 3rd petitioner in Crl.M.P.(MD)No.2167 of 2024/A3 shall stay at Trichy and report before the Inspector of Police, Uppliyapuram Police Station, Trichy, daily at 10.30 a.m. until further orders.

(v) The 4th petitioner in Crl.M.P.(MD)No.2167 of 2024/A5 shall stay at Tirunelveli and report before the Inspector of Police, C4 Nanguneri Police Station, Tirunelveli, daily at 10.30 a.m. until further orders.

(vi) The petitioner in Crl.M.P.(MD)No.2132 of 2024/A4 shall stay at Virudhunagar and report before the Inspector of Police, Virudhunagar Town Police Station, daily at 10.30 a.m. until further orders.



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11. In the result, Crl.M.P.(MD)No.2167 of 2024 is partly allowed and Crl.M.P.
(MD)No.2132 of 2024 is allowed.

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07/04/2025

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

TO

1. THE I ADDITIONAL SPECIAL COURT FOR NDPS ACT
CASES, MADURAI.
- 2 . THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
3. THE INSPECTOR OF POLICE,
THIDEER NAGAR POLICE STATION,
MADURAI.
- 4.THE INSPECTOR OF POLICE,
UPPLIYAPURAM POLICE STATION, TRICHY.
- 5.THE INSPECTOR OF POLICE,
C4 NANGUNERI POLICE STATION, TIRUNELVELI.



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6. THE INSPECTOR OF POLICE,
VIRUDHUNAGAR TOWN POLICE STATION,
VIRUDHUNAGAR

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

ORDER
IN
Crl.M.P.(MD)Nos.2167 and 2132 of 2024
in Crl.A.(MD)Nos.144 and 139 of 2024

Date :07/04/2025

AS (07/04/2025) 11P / 8C
Madurai Bench of Madras High Court is issuing certified copies in this format from
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