



CrI.MP(MD) No.2648 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CrI.MP(MD) No.2648 of 2025

in CrI.A(MD) No.260 of 2025

Maheshwaran

... Petitioner

Vs.

State of Tamil Nadu
Represented by
the Inspector of Police,
Thevaram Police Station,
Theni District.
(Crime No.406 of 2019)

... Respondent

Prayer: Petition filed under Section 430 (1) of BNSS to suspend the sentence imposed by the I Additional Special Court for NDPS Act Cases, Madurai passed in CC.No.121 of 2021, dated 26.11.2024 and enlarge the petitioner on bail pending disposal of the criminal appeal.

For Petitioner : Mr.J.Jeya Aron Raja

For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor

ORDER

The petitioner is the sole accused and he was tried in CC.No.121 of 2021 before the I Additional Special Court for NDPS Act Cases, Madurai, convicted for the



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offence under Section 8(c) r/w 20(b)(ii)(B) of the NDPS Act and sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.25,000/-, in default to undergo six months simple imprisonment. As against the conviction and sentence imposed by the trial Court, the petitioner has filed an appeal in Crl A(MD)No.260 of 2025 and it has been admitted by this Court. Along with the appeal he has filed this application to suspend the sentence imposed on him by the trial court.

2.The learned counsel appearing for the petitioner submits that the petitioner was arrested on 09.11.2019 as if he was in possession of 8 kgs of ganja. It is only an intermediate quantity. He is in jail from the date of conviction, ie., from 26.11.2024. He further submits that the provisions under Sections 41(1) and 42 of the NDPS Act have not been complied with since the information received by PW1 was not intimated to any of the higher officials or to the competent court and PW1's signature was not found in Ex.P1 information record. Likewise the provisions under Section 50 (1) of the NDPS Act were not complied with, which mandates that an individual must be informed of his right of choice to be searched in the presence of a gazetted officer or a magistrate. There is no document regarding the safe custody of the contraband from the date of seizure on 09.11.2019 till the date of production before the court on 27.11.2019. The trial Court has failed to consider all these aspects and therefore, the learned Counsel requested to consider the case of the petitioner for



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suspending the sentence pending the criminal appeal.

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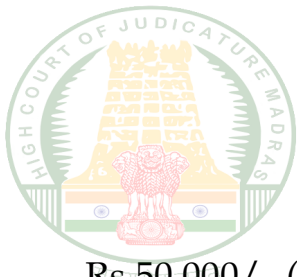
3.The learned Additional Public Prosecutor appearing for the respondent submits that the trial court has considered the evidence of the witnesses and the documents produced by the prosecution, rightly found the petitioner guilty and convicted.

4.This Court considered the rival submissions made and perused the material placed on record.

5.The quantity of ganja involved in this case is 8 kgs, which is admittedly an intermediate quantity. The petitioner has been imposed with a sentence of three years imprisonment and he is in jail from 26.11.2024. The petitioner has raised certain arguable points, which can be considered only during the final hearing of the appeal. However the appeal could not be taken up for final hearing for want of time. Considering the points raised by the petitioner and for the reason that the appeal could not be taken up immediately, the petitioner's period of incarceration this Court inclined to allow this petition.

6.Accordingly this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended pending disposal of the criminal appeal.

(i)The petitioner is ordered to be enlarged on bail on executing a bond for



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Rs.50,000/- (Rupees Fifty Thousands only) with two sureties each for a like sum, to the satisfaction of the I Additional Special Court for NDPS Act Cases, Madurai.

(ii) The petitioner shall also file an affidavit that he will not misuse the liberty and will not indulge in any further offence.

(iii) The petitioner shall report before the respondent police station daily at 10.30 am.

(iv) If the petitioner violates any of the conditions, the respondent police shall move an application to cancel the order of suspension of sentence.

sd/-
09/04/2025

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15/04/2025

Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

dsk
TO

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

2 THE INSPECTOR OF POLICE,
THEVARAM POLICE STATION, THENI DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, PUZHAL.

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

+1 CC to M/s.J.JEYA ARON RAJA, Advocate (SR-4164[I] dated 09/04/2025)



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ORDER
IN
CRL MP(MD) No.2648 of 2025
in
Crl.A(MD) No.260 of 2025
Date :09/04/2025

NBF/SAR/ (15/04/2025) 5P/6C

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