



Crl.M.P.(MD)No.2617 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.2617 of 2025

in Crl.A.(MD)No.258 of 2025

Jeyakumar,
S/o.Sadaiyathevar,
Ward No.5,
Thevar Colony,
Kanniservaipatti,
Uthamapalayam Taluk,
Theni District.

Petitioner(s)

versus

State rep. by
The Inspector of Police,
Rayappanpatti Police Station,
Theni District.

Respondent(s)

For Petitioner(s):

Mr.J.Jeyaaron Raja
Advocate

For Respondent(s):

Mr.A.S.Abul Kalam Azad
Government Advocate (Crl. Side)

ORDER

The petitioner is the first accused in C.C.No.235 of 2015. He was tried along with another accused in C.C.No.235 of 2015 on the file of the I Additional Special

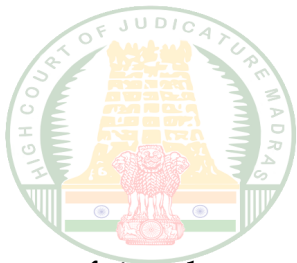


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Court for NDPS Act Cases, Madurai, that they were found in possession of 16 kgs. of ganja. During the trial, the second accused Mokkaraj died and therefore, the case as against the second accused was closed as charge abated. Thereafter, the trial Court has proceeded with the trial as against the petitioner. In conclusion of trial, the trial Court, by its Judgment dated 12.08.2024, 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 seven years rigorous imprisonment and to pay a fine of Rs.70,000/-, with the default sentence of one year simple imprisonment. Challenging the Judgment of conviction and sentence, the petitioner has preferred an appeal in Crl.A.(MD)No.258 of 2025 and the same has been admitted by this Court on 27.02.2025. The petitioner has also moved this petition seeking to suspend the sentence imposed by the trial Court pending the appeal.

2. The learned counsel appearing for the petitioner submits that the alleged contraband was said to have recovered from the petitioner/ A1 and A2 on 03.09.2015, but, it was produced before the trial Court only on 15.09.2015, i.e. after 12 days. In support of his contention, the learned counsel has also relied on the evidence of P.W.2 and the evidence of the investigation officer/P.W.3. By referring the evidence of P.W.2, the learned counsel submits that the requirement under Section 52A of the NDPS Act has not been complied with. Therefore, according to him, this case is a



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foisted one and the petitioner is not having any antecedent. Since the petitioner is in jail from the date of Judgment, i.e. from 12.08.2024, he seeks to suspend the sentence imposed by the trial Court.

3. The learned Government Advocate (Crl. Side) submits that the contraband was recovered from the petitioner. On the date of occurrence, the petitioner/A1 and A2 were found in possession of 16 kgs. of ganja and therefore, he was arrested along with the contraband. He further submits that all the mandatory requirements have been complied with and all the grounds raised by the petitioner were also discussed by the trial Court in its Judgment. Therefore, it is not a fit case for granting suspension of sentence, considering the quantity of contraband. The learned Government Advocate further submits that the petitioner is not having any antecedent.

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

5. The contraband was said to have been recovered on 03.09.2015, but, it was produced before the trial Court only on 15.09.2015, which has been admitted by the official witnesses, namely, P.W.2 and P.W.3/Investigation Officer. The petitioner has raised certain arguable points, which can be considered only at the time of final hearing. However, the appeal could not be taken up for final hearing for want of



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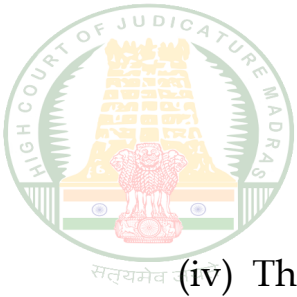
6. Considering the points raised by the petitioner, his period of incarceration and for the reason that the appeal could not be taken up immediately, this Court is inclined to allow this petition.

7. 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 Court for NDPS Act Cases, Madurai.

(ii) the persons who are giving sureties should be respectable persons in their locality, either Government Servants or elected people representatives or the persons who are having permanent business establishments and the sureties shall file an affidavit before the respondent Police, by ensuring that the petitioner will not indulge in any other offence in future and he will be available till the disposal of the appeal proceedings.

(iii) The petitioner shall also file an undertaking affidavit before the respondent Police that he will not indulge in any other offence in future and he will be available till the disposal of the appeal proceedings.



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(iv) The petitioner shall stay in Madurai and report before the Inspector of Police, Anna Nagar Police Station, Madurai, daily at 10.30 a.m. until further orders.

sd/-
03/04/2025

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03/04/2025
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

- 1 THE I ADDITIONAL SPECIAL JUDGE FOR NDPS ACT CASES, MADURAI.
- 2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE,
RAYAPPANPATTI POLICE STATION, THENI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO
THE INSPECTOR OF POLICE, ANNA NAGAR POLICE STATION, MADURAI.

+1 CC to M/s.J.JEYA ARON RAJA, Advocate (SR-3836[I] dated 03/04/2025)

ORDER
IN
CRL MP(MD) No.2617 of 2025
Date :03/04/2025

NBF/SAR/ (03/04/2025) 5P/7C

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