



Crl.MP(MD) No.2832 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.MP(MD) No.2832 of 2024

in

Crl.A(MD) No.194 of 2024

Deivam

... Petitioner

Vs.

State of Tamil Nadu

Represented by

the Inspector of Police,

Cumbum North Police Station,

Theni District.

(Crime No.350 of 2015)

... Respondent

Prayer: Petition filed under Section 389 (1) of BNSS to suspend the sentence as imposed on the petitioner by judgment dated 25.09.2023 made in CC.No.211 of 2015 on the file of the II Additional Special Court for NDPS Act Cases, Madurai forthwith and thereby enlarge him on bail pending disposal of the above criminal appeal.

For Petitioner	:	Ms.S.Muthulakshmi
For Respondent	:	Mr.T.Senthil Kumar, Additional Public Prosecutor

ORDER

The petitioner is A2 in CC.No.211 of 2015. He was tried along with A1 that A1 had transported 22 kg of ganja on 25.07.2015. The police found the petitioner along with A1 standing in front of the house of A1. On seeing the police party, this petitioner/A2 ran away from the spot. A1 was arrested and the contraband was recovered from the house of A1. According to the prosecution, A1 is having 21 cases



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to his credit. This petitioner was found guilty by the trial Court along with A1 and he was convicted for the offence under Sections 8(c) r/w 20(b) (ii)(C) of NDPS Act and sentenced to undergo 12 years rigorous imprisonment with fine of Rs.1,00,000/- and default sentence of 12 months simple imprisonment was also imposed. As against the sentence imposed by the trial Court, this petitioner has already filed an appeal before this Court in Crl.A(MD) No.194 of 2024 and the same has been admitted by this Court on 19.02.2025. This application is moved by him to suspend the sentence.

2.The learned counsel for the petitioner submits that except the confession statement of the co-accused, there is no other material as against the petitioner, connecting him with the commission of offence. There is no recovery from the petitioner. Further the prosecution witnesses are only official witnesses and there is no independent witness. The seized contraband was not produced before the court concerned within the time prescribed under the NDPS Act . There is no bad antecedent against the petitioner. The petitioner is in jail from the date of conviction, ie., from 25.09.2023. Therefore, the learned Counsel prayed that the sentence imposed on the petitioner be suspended pending the appeal.

3.The learned Additional Public Prosecutor appearing for the respondent submits that the petitioner was present along with other accused. However he fled from the place on seeing the police. Therefore, he was prosecuted based on the



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confession statement of the co-accused.

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

5.The petitioner has been implicated in this case through the confession statement of the co-accused. There is no recovery from the petitioner and there is no other material collected against him by the investigating officer. 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 Rs.25,000/- (Rupees Twenty Five Thousands only) with two sureties each for a like sum, to the satisfaction of the II Additional Special Court for NDPS Act Cases, Madurai.

(ii) The petitioner shall also file an affidavit that he will not misuse the liberty



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and will not indulge in any further offence.

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(iii) The petitioner shall report before the Anna Nagar Police Station, Madurai daily at 10.30 am and at 5.00pm.

(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/-

16/04/2025

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16/04/2025

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

DSK

TO

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



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

ORDER
IN
Crl.MP(MD) No.2832 of 2024
in
Crl.A(MD) No.194 of 2024
Date :16/04/2025

RS//SAR-(16.04.2025) 5P 6C
Madurai Bench of Madras High Court is issuing
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