



CRL MP(MD)No.2646 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 03.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRL MP(MD)No.2646 of 2025

in

CRL A(MD)No.599 of 2023

K.Dharma

... Petitioner

Vs

The State represented by
The Inspector of Police,
NIB CID Police Station,
Madurai District
(Crime No.75 of 2019)

... Respondent

Prayer: Petition filed under Section 430(1) of BNSS to suspend the sentence and grant bail to the petitioner / accused No.2 against the conviction judgment in CC.No.21 of 2020 on the file of the I Additional Special Court for NDPS Act Cases, Madurai dated 30.06.2023 and enlarge petitioner / accused No.2 on bail pending disposal of the criminal appeal.

For Petitioner : Mr.Pinaygash.I

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

ORDER

The petitioner / A2 accused in CC.No.21 of 2020 on the file of the I Additional Special Court for NDPS Act Cases, Madurai was found guilty, convicted and



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sentenced to undergo 10 years rigorous imprisonment with a fine of Rs.1,00,000/-, in default, to undergo 12 months simple imprisonment for the offence under Section 8(c) r/w 20 (b)(ii)(c) and 25 of NDPS Act. As against the conviction, the petitioner has filed an appeal in CrIa(MD)No.599 of 2023 and it has been admitted. This is the third petition filed to suspend the sentence. The earlier two petitions filed by the petitioner to suspend the sentence were dismissed by this Court.

2.The learned counsel for the petitioner submits that the petitioner is A2 and he is a college student. He has been wrongly roped in this case based on the confession statement recorded from A1. According to the learned Counsel for the petitioner, the contraband was recovered only from A1 and confession statement was recorded as if the petitioner has travelled along with A1 in a motorcycle and on seeing the police, A1 got down from the motorcycle and this petitioner fled away. Except the confession statement, there is no other material placed as against this petitioner. In the absence of any material as against the petitioner, based on the confession statement alone the petitioner has been charge sheeted and the trial Court has also mechanically convicted the petitioner. The petitioner is in jail from 30.06.2023. Therefore, the learned Counsel prayed that the sentence imposed on the petitioner be suspended pending the criminal appeal.

3.The learned Additional Public Prosecutor appearing for the respondent



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submits that the petitioner and A1 are close friends and they belong to the same village. The petitioner has taken a plea that he was not having any nexus with A1. In the bail petition the petitioner has taken a stand that he has taken A1 in his motorcycle, but he was not aware of the contraband possessed by A1 and before the trial Court he has taken a stand that he was not having any nexus with A1 and he was having no knowledge of the contraband. The trial Court has considered the contradictory statements of the petitioner and discussed in detail and convicted the petitioner rightly along with A1. He further submits that the two earlier petitions filed by this petitioner to suspend the sentence were dismissed by this Court. There is no change in circumstance from the dismissal of the earlier petition. Therefore, he objects to suspend the sentence pending the appeal.

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

5.The contraband has been recovered from A1. The case of the prosecution is that the petitioner has taken A1 along with him in his motor cycle. However on seeing the police party, he dropped A1 and has fled the occurrence place. The investigating agency has not collected any material except the confession statement recorded from A1. In the absence of material the trial Court has convicted the petitioner. Considering the period of incarceration of the petitioner, the petitioner is



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having some arguable points in the main appeal and though the earlier petitions to suspend the sentence were dismissed, the appeal could not be taken up for final disposal so far, this Court is inclined to suspend the sentence pending the criminal appeal.

6. Accordingly this petition is allowed and 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 executing a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Additional District Judge, I Additional Special Court for NDPS Act Cases, Madurai and the petitioner shall stay at Palayamkottai and report before Palayamkottai Police Station daily at 10.30 am.

sd/-
03/03/2025

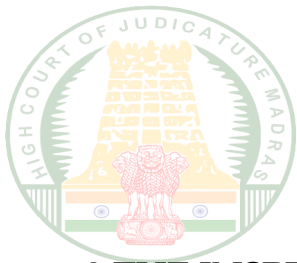
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/03/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSK
TO
1 THE ADDITIONAL DISTRICT JUDGE,
I ADDITIONAL SPECIAL COURT FOR NDPS ACT CASES,
MADURAI

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

<https://www.mhc.tn.gov.in/judis>



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3 THE INSPECTOR OF POLICE,
NIB CID POLICE STATION,
MADURAI DISTRICT

4 THE INSPECTOR OF POLICE,
PALAYAMKOTTAI POLICE STATION,
PALAYAMKOTTAI.

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

+1 CC to M/s.I.PINAYGASHI, Advocate (SR-2367[I] dated 04/03/2025)

ORDER
IN
CRL MP(MD)No.2646 of 2025
in
CRL A(MD)No.599 of 2023
Date :03/03/2025

SA/SAR. /05.03.2025/5P/7C

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