



CRL MP(MD) NO. 3458 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17-03-2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

**CRL MP(MD) NO. 3458 of 2025
in CRL A(MD)NO.32 of 2020**

Karthikeyan

Petitioner(s)

Vs

The State of Tamil Nadu
Rep by The Deputy Superintendent of Police,
NIB CID, Tuticorin,
Tuticorin District. Crime No. 34/2018

Respondent(s)

For Petitioner(s):

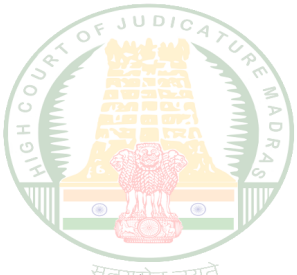
Mr.G.Karuppasamy Pandiyan

For Respondent(s):

Mr.T.Senthilkumar
Addl. Public Prosecutor

ORDER

This Criminal Miscellaneous Petition is filed by the petitioner / accused to suspend the sentence imposed as against him by the learned Judge, I Additional Special Court for NDPS Act Cases, Madurai, in C.C.No.57 of 2019, dated 19.11.2019.



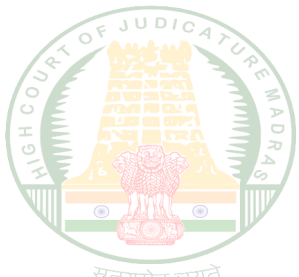
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2. There are two accused and the petitioner is the second accused. They were charged for the offence u/s.8(c) r/w. 20(b)(ii)(C) of the NDPS Act r/w Section 34 IPC and Section 29(1) of the NDPS Act. The trial Court has found the accused guilty, convicted and sentenced them. Insofar as the petitioner / second accused is concerned, the trial Court sentenced him to undergo rigorous imprisonment for twelve years and a fine of Rs.1,00,000/-, in default, to undergo simple imprisonment for two years, for the offence u/s.29(1) r/w.8(c) r/w.20(b)(ii)(C) of the NDPS Act.

3. Learned Counsel for the petitioner/appellant submitted that the petitioner is a Government Servant, working as an Assistant in the Agriculture Department in the District Collectorate. The Company, in which the recovery has been made, is adjacent to this petitioner's house. The petitioner used to visit the Company and have a chat with the first accused in the evening hours. He also used to have some liquor with the first accused. On the date of occurrence, when the first accused was not present in the spot, the NIB CID conducted a search in the first accused's Company. It was objected by the petitioner. For having raised objections, this petitioner was also added as an accused in this case.

4. By referring to the evidence of the investigation officer, learned Counsel submitted

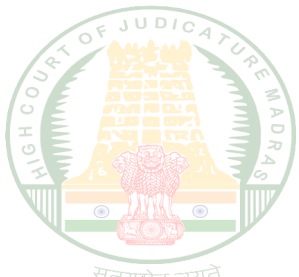


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that the investigation agency has not collected any materials connecting the petitioner with the first accused, other than the alleged recovery. He further submitted that the investigation agency has conducted the search, based on the information from one Sampath, however, the said Sampath was not examined. The petitioner is in jail from the date of arrest, on 03.08.2018 and already undergone 6.7 years in prison. Therefore, he prayed for suspending the sentence pending the criminal appeal.

5.Learned Additional Public Prosecutor appearing for the State submitted that the petitioner was found in the Company, where the recovery has been made. In his presence, the recovery mahazar was prepared and he has also signed in the same. By referring to the nature of contraband, ie,. Charas and its quantity, he submitted that even 1 kg of Charas is a commercial quantity and in this case, 466 kgs of Charas was recovered from the petitioner. He further submitted that the petitioner has not adduced any evidence to substantiate that he is a Government Servant or to rebut the presumption u/s.35 of the NDPS Act. The trial Court has considered the evidence and the documents produced by the prosecution and rightly found the petitioner guilty and convicted. Therefore, he has raised his objection to suspend the sentence imposed on the petitioner, pending this appeal.



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6. This Court considered the submissions made by the learned Counsel on either side and perused the materials placed on record.

7. The contraband was recovered from a Company, bearing Door No.1H/1857, Gandhi Nagar 5th Street, Tuticorin. Admittedly, the Company belongs to the first accused. The petitioner claims that he is a neighbour and he used to visit the Company in the evening hours. He also used to take liquor with the first accused. His case is that for having questioned about the search in the first accused's Company in his absence, he has made as an accused. Though the petitioner has failed to produce any material that he is a Government Servant, by referring to the confession statement, the learned Counsel projected that the petitioner is a Government Servant and he is not in a position to come out on bail itself from the date of arrest and could not effectively defend the trial.

8. The petitioner has raised certain arguable points, which needs to be considered at the time of final disposal of the appeal. However, the appeal could not be taken up for final hearing in the near future. The petitioner is in jail for the past 6 years and 7 months. Therefore, this Court is inclined to suspend the sentence imposed on the petitioner.



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9. Accordingly, this miscellaneous petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal. 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 Judge, I Additional Special Court for NDPS Act Cases, Madurai. The petitioner shall report before the Station House Officer, NIB CID, Madurai, daily at 10.30 a.m., until further orders.

sd/-
17/03/2025

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19/03/2025

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

GK

TO

- 1 THE IST ADDITIONAL SPECIAL JUDGE
FOR NDPS ACT CASES, MADURAI.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
NIBCID TUTICORIN,
TUTICORIN DISTRICT.



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3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.

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

COPY TO:
THE STATION HOUSE OFFICER,
NIB CID, MADURAI.

+1 CC to M/s.G.KARUPPASAMY PANDIYAN, Advocate (SR-3015[I] dated
18/03/2025)

ORDER
IN
CRL MP(MD) No.3458 of 2025
in CRL A(MD)NO.32 of 2020
Date :17/03/2025

SS/SAR- /19/03/2025/ 6P/7C

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