



Crl.M.P.(MD)No.3540 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.04.2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.3540 of 2025

in Crl.A.(MD)No.458 of 2023

Haji Ali,
S/o.Mohammed Ali Jinnah,
TNPH Colony,
Villapuram,
Madurai District.

Petitioner(s)

versus

State of Tamilnadu, rep. by
The Inspector of Police,
NIB CID,
Madurai District.

Respondent(s)

For Petitioner(s):

Mr.SMA.Jinnah
Advocate

For Respondent(s):

Mr.T.Senthilkumar,
Additional Public Prosecutor

ORDER

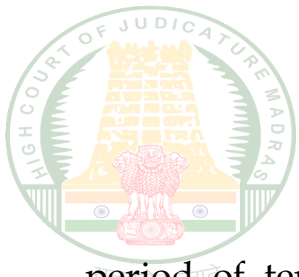
The petitioner is the 2nd accused in C.C.No.237 of 2021 on the file of the I Additional Special Court for NDPS Act Cases, Madurai. He was tried along with two other accused for the offence under Sections 8(c) r/w. 20(b)(ii)(C), 29(1) and Section 25 of NDPS Act. In conclusion of trial, the trial Court, by its Judgment dated 30.05.2023, found the petitioner guilty for the offence under Section 8(c) r/w. 20(b)(ii)



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(C) of NDPS Act and convicted and sentenced him to undergo rigorous imprisonment for 10 years and to pay a fine of Rs.1,00,000/-, in default, to undergo simple imprisonment for a further period of 12 months. Challenging the Judgment of conviction and sentence, the petitioner has filed an appeal in Crl.A.(MD)No.458 of 2023 and the same has been admitted by this Court on 21.06.2023. The petitioner has already moved a petition in Crl.M.P.(MD)No.8776 of 2023 to suspend the sentence and subsequently, it was withdrawn by the petitioner on 07.07.2023. Thereafter, the petitioner has moved a second petition in Crl.M.P.(MD)No.15313 of 2023 to suspend the sentence. This Court, on 16.10.2024, passed an elaborate order and dismissed the said petition. Now, this is the 3rd petition filed by the petitioner to suspend the sentence.

2. The learned counsel appearing for the petitioner submits that there is no recovery from the petitioner. Though the petitioner's name has been mentioned in the FIR, he was not arrested along with other accused, from whom, the contraband was recovered. According to him, the petitioner was not found in the place of occurrence and he has been implicated only through the confession statement of the 1st accused. The learned counsel by referring the evidence of the Investigating Officer, submits that apart from the confession statement, there is no other material as against the petitioner. He further submits that the petitioner was convicted for a



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period of ten years and he is in jail for the past four years and he has already undergone the substantial portion of imprisonment. Though the earlier petition filed by the petitioner was dismissed by this Court, the appeal has not been taken up for final hearing. Therefore, he seeks to suspend the sentence imposed by the trial Court.

3. The learned Additional Public Prosecutor submits that the quantity of ganja involved in this case is 74 kgs. The accused transported the ganja in a Car bearing Reg.No.TN39 AQ 9090. The petitioner was the driver of the vehicle and on seeing the police party, he left the vehicle and ran away from the place of occurrence. However, the Police secured the accused and recovered 74 kgs. of ganja. Apart from this case, the petitioner is also involved in three other cases. If the petitioner is released on bail by suspending the sentence, he will indulge in further offence in future. Therefore, he strongly opposed to grant suspension of sentence.

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

5. This is the 3rd petition filed by the petitioner to suspend the sentence imposed by the trial Court. The earlier petition filed by the petitioner to suspend the sentence in Crl.M.P.(MD)No.15313 of 2023 was dismissed by this Court by order dated 16.10.2024. The petitioner is in jail for the past four years. Admittedly, the Investigating Agency has not collected any material other than the confession



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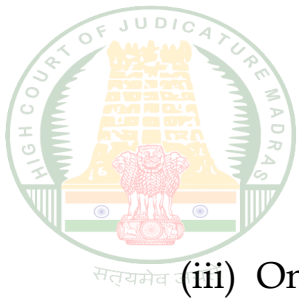
statement of the 1st accused. Further, the previous cases pending against the petitioner are registered under Section 75 of TNCP Act. Though the earlier petition was dismissed by this Court, the appeal could not be taken up for final hearing for want of time.

6. Considering the points raised by the petitioner, period of incarceration and for the reasons 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.50,000/- (Rupees fifty thousand 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 misuse the liberty granted by this Court pending the appeal and will not indulge in any further offence in future and he will be available for appeal.



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(iii) On payment of fine amount only, the learned Judge shall accept the sureties and release the petitioner on bail.

(iv) The petitioner shall also file an undertaking affidavit before the respondent Police that he will not indulge in any further offence in future and he will be available during the appeal proceedings.

(v) The petitioner shall stay at Trichy and report before the Inspector of Police, Upiliyapuram Police Station, Thuraiyur, Trichy, daily at 10.30 a.m. until further orders.

sd/-
17/04/2025

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17/04/2025

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

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To

1. The I Additional Special Court for NDPS Act Cases, Madurai.
2. The Superintendent, Central Prison, Madurai.
3. The Inspector of Police, NIB CID, Madurai District.
4. The Inspector of Police, Upiliyapuram Police Station, Thuraiyur, Trichy.
5. The Additional Public Prosecutor, Madurai Bench of Madras High Court,
Madurai.



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ORDER

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in
CrI.A.(MD)No.458 of 2023
Date :17/04/2025

NBF/SAR/ (17/04/2025) 6P/6C

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