

Crl.MP(MD) No.4873 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 21.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.MP(MD) No.4873 of 2025
in Crl.A(MD) No.438 of 2025

Gandhimathi

... Petitioner

Vs.

State of Tamil Nadu
Represented by
the Inspector of Police,
Gandamanur Vilaku Police Station,
Theni District.
(Crime No.290 of 2022)

... Respondent

Prayer: Petition filed under Section 430 of BNSS to suspend the sentence of imposed by the I Additional Special Judge for NDPS Act Cases, Madurai in CC.No.226 of 2022 by judgment dated 25.03.2025 and enlarge the petitioner on bail, pending disposal of the appeal.

For Petitioner : Mr.S.Balaji
For Respondent : Mr.A.S.Abul Kalam Azad,
Government Advocate (Crl Side)

ORDER

The petitioner is accused No.1 in CC.No.226 of 2022 on the file of the I Additional Special Judge for NDPS Act Cases, Madurai. He was tried along with two other accused for the charge that all the three accused had travelled in a two wheeler



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with possession of 8 kgs of ganja. Pending trial A3 died and charge against him was abated. By judgment dated 25.03.2025, A1 and A2 have been found guilty, convicted for the offence under Sections 8(c) r/w 20(b)(ii)(B) and 19(1) of the NDPS Act and sentenced to undergo 3 years rigorous imprisonment with a fine of Rs.25,000/- in default to undergo 6 months simple imprisonment. As against the conviction and sentence imposed by the trial Court, this petitioner has filed an appeal before this Court in Crl.A(MD) No.438 of 2025 and the same has been admitted by this Court. The petitioner has also moved this petition to suspend the sentence.

2.The learned Counsel for the petitioner submits that the mandatory provisions under Sections 42(2) and 50 of the NDPS Act have not been complied with. Further the ownership of the alleged two wheeler is not proved. There is a delay of four days in sending the sample for analysis. The prosecution has not examined the officer, who has taken the samples and the officer, who has given the chemical analysis report. The petitioner is in jail from the date of conviction and he is not having any bad antecedents. Therefore, the learned Counsel prayed that the sentence be suspended pending the appeal.

3.The learned Government Advocate (Crl Side) appearing for the respondent submits that there is no violation in complying with the provisions under Sections 42 (2) and 50(2) of the NDPS Act. These ground raised by the petitioner have been



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discussed by the trial Court in paragraph No.22 of its judgment. However, the learned Government Advocate has submitted that the petitioner is not having any bad antecedents.

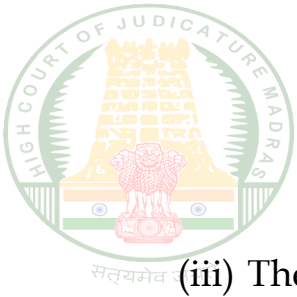
4.This Court considered the rival submissions made and perused the material placed on record.

5.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, this Court is 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 on the following conditions:

(i) The petitioner is ordered to be enlarged on bail on executing a bond for Rs.50,000/- (Rupees Fifty Thousands) with two sureties each for a like sum, to the satisfaction of the I Additional Special Judge for NDPS Act Cases, Madurai and one of them, must be a respectable person in the locality.

(ii) The petitioner and the sureties shall file an affidavit before the respondent police that she will not misuse this liberty and will not indulge in any further offence.



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(iii) The petitioner shall report before the I Additional Special Judge for NDPS Act Cases, Madurai daily at 10.30 am.

(iv) If the petitioner violates any of the conditions, the respondent police shall move an application to cancel the order of suspension of sentence of imprisonment.

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

DSK

To

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

+1. C.C. to S.BALAJI Advocate SR.No.4432(I) DT.21.04.2025



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ORDER
IN
CRL MP(MD) No.4873 of 2025
Date :21/04/2025

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