



Crl.MP(MD) No.5451 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED :29.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.MP(MD) No.5451 of 2025

in

Crl.A(MD) No.156 of 2022

M.Vignesh

... Petitioner

Vs.

State of Tamil Nadu,
Rep by the Inspector of Police,
NIB CID,
Madurai.
Crime No.12 of 2018

... Respondent

For Petitioner : Mr.C.Jeganathan
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

The petitioner/A2 in CC.No.406 of 2018 was tried along with A1, by the learned Additional District Judge, I Additional Special Court for NDPS Act Cases, Madurai (FAC) that he has transported 204 kgs of ganja in an Innova Car bearing



Crl.MP(MD) No.5451 of 2025

Reg.No. TN 09 BS 2217 on 26.01.2018 at about 5.00 hours and he was found guilty by the trial Court for the offence under Sections 8(c) r/w 20(b) (ii) (C) of NDPS Act, convicted and sentenced to undergo 10 years rigorous imprisonment with fine of Rs.1,00,000/- and default sentence of six months simple imprisonment was also imposed. As against the conviction and sentence imposed by the trial Court in CC.No.406 of 2018, dated 29.10.2021, this petitioner has filed a Criminal Appeal in Crl.A(MD) No.156 of 2022 and the same was admitted by this Court on 24.03.2022. The petitioner has also moved an application in Crl.MP(MD) No.3142 of 2022, to suspend the sentence imposed on him by the trial Court and the same was dismissed by this Court, by its order, dated 11.08.2022, considering the nature of offence. This is the second application filed by this petitioner, seeking suspension of sentence.

2.The learned counsel appearing for the petitioner submits that the very basis of the complaint itself is doubtful. According to the prosecution, the respondent police intercepted an Innova Car, bearing Reg.No.TN 09-BS-2217, near Chettiapatty Village in Usilampatty to Theni National Highways and recovered 204 kg of ganja. When the vehicle along with the contraband has been recovered as projected by the respondent police on 26.1.2018, then there is no possibility of name transfer of the



Crl.MP(MD) No.5451 of 2025

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said vehicle on 21.02.2018. According to him, originally the vehicle stood in the name of Selvakumar and the ownership of the vehicle was transferred to one Ganeshwari on 21.02.2018 before the RTO, Uthamapalayam. The learned counsel for the petitioner has also relied on the evidence of PW 5 to that effect. Therefore, according to the learned counsel, the very basis of the complaint itself is doubtful as to whether the contraband has been recovered as projected by the respondent police on 26.01.2018 from the Car bearing Reg.No.TN 09 BS 2217.

3.The learned counsel by relying upon the earlier order of this Court in Crl.MP (MD) No.14883 of 2023 in Crl.A(MD) No.547 of 2021 submits that the sentence imposed on A3 in CC No.406 of 2018 has been suspended by this Court, by its order, dated 21.03.2025 and therefore, the same benefit may also be extended to this petitioner also.

4.The learned Additional Public Prosecutor appearing for the respondent submits that the quantity involved in this case is 204 kg of ganja. The petitioner cannot be equated with that of the co-accused/A1, as A1 was not arrested from the place of occurrence and he was arrested only after eight months from the date of occurrence. Therefore, the benefit of suspension of sentence



Crl.MP(MD) No.5451 of 2025

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granted to A1 cannot be taken advantage by this petitioner. He further submits that the contraband was produced before the Judicial Magistrate Court on the same day of recovery and thereafter on the directions of the Court, it was produced before the Special Court for NDPS Act cases, Madurai. The earlier application filed by this petitioner on the very same ground has already been considered by this Court and it was dismissed. Therefore, there is no need to consider the same ground once again.

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

6.The crux of the prosecution case is that the respondent police has recovered 204 kg of ganja from an Innova Car, bearing Reg.No. TN 09 BS 2217 on 26.01.2018 at about 5.00 hours, near Chettiapatty Village in Usilampatty to Theni National Highways. In that event, the Car, which has been used for the commission of offence ought to have been seized by the respondent police. The learned Additional Public Prosecutor claims that the contraband was produced before the concerned Judicial Magistrate Court on the same day of recovery and thereafter, on the directions of the Court, it was produced before the Special Court after a period of four days. It is to be noted that RTO, who was examined as PW5 has stated that the ownership of the



Crl.MP(MD) No.5451 of 2025

car of the offending Vehicle, bearing Registration Number TN 09 BS 2217 was transferred from the name of one Selva kumar to one Ganeshwari on 21.02.2018, however, there is no explanation from the prosecution for the same.

7. Since the petitioner has raised certain arguable points as above and the same 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 that this Court has granted suspension of sentence to A1 and also considering that this petitioner is in jail for a period of 6 ½ years, this court is inclined to suspend the sentence imposed on the petitioner.

8. 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 a sum of Rs.50,000/- (Rupees Fifty Thousand) with two sureties each for a like sum to the satisfaction of the learned I Additional Special Court for NDPS Act Cases, Madurai.



Crl.MP(MD) No.5451 of 2025

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- ii. The petitioner shall file an undertaking affidavit before the respondent police that he will not misuse the liberty granted to him and he will not indulge in any offence.
- iii. The petitioner shall stay at Virudhunagar and report before the Inspector of Police, Virudhunagar West Police Station, daily at 10.30 a.m., till the disposal of the appeal.
- iv. In the event, if the petitioner has violated any of the above conditions, it is open to the respondent police to file an application to cancel the bail granted to him.

sd/-
29/04/2025

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30/04/2025
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

VRN



Crl.MP(MD) No.5451 of 2025

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1.THE I ADDITIONAL SPECIAL COURT FOR NDPS ACT CASES, MADURAI.

2.THE INSPECTOR OF POLICE,
NIB CID,
MADURAI.

3.THE INSPECTOR OF POLICE,
VIRUDHUNAGAR WEST POLICE STATION,
VIRUDHUNAGAR

4.THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.

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

+1. C.C. to C.JEGANATHAN Advocate SR.No.5116 (I)DT.30/04/2025

ORDER

IN

CRL MP(MD) No.5451 of 2025

Date :29/04/2025

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