

Crl.M.P.(MD)No.6022 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04-08-2025

CORAM

THE HONOURABLE DR JUSTICE R.N.MANJULA

Crl.M.P.(MD)No.6022 of 2025

in Crl.A.(MD)No.847 of 2024

Raja @ Puthuraja

Petitioner/Accused No.2

Vs

State through

The Inspector of Police
NIBCID, Dindigul.

(In Crime No.32 of 2014)

Respondent/Complainant

For Petitioner(s):

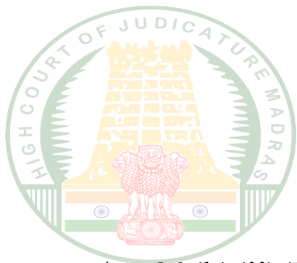
Mr.J.Selvam
Advocate

For Respondent(s):

Mr.P.Meenakshi Sundaram
Additional Public Prosecutor

ORDER

The petitioner is the second accused in C.C.No.207 of 2015 on the file of the I Additional Special Court for NDPS Act cases, Madurai. After the trial, the trial Court, by its Judgment dated 20.03.2024, found the petitioner guilty for the offence under Section 8(c)



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r/w. 20(b)(ii)(B) of NDPS Act and convicted and sentenced him to undergo 4 years rigorous imprisonment and to pay a fine of Rs.30,000/-, with the default sentence of 12 months simple imprisonment. Challenging the Judgment of conviction and sentence, the petitioner has preferred an appeal in Crl.A.(MD)No.847 of 2025 along with the petition for suspension of sentence. The Criminal Appeal was admitted by this Court on 21.10.2024.

2. The learned counsel appearing for the petitioner submits that though the contraband was said to be recovered on 20.03.2014, it was produced before the concerned Court only on 15.05.2014, i.e. with the delay of 56 days. He further submits that in the consent letter recorded under Section 50 of NDPS Act, there is no reference about the date, time and place of occurrence. He further submits that the petitioner is in jail from the date of conviction, i.e. from 20.03.2024 i.e more than 1 ½ years and the petitioner was acquitted in the cases which are filed against him. Therefore, he seeks for suspending the sentence imposed against the petitioner. He further submitted that this Court has suspended the sentence of the co-accused in this case in Crl.MP(MD)No.6636 f 2024 vide order dated 18.02.2025.

3. The learned Additional Public Prosecutor submits that the contraband was placed before the concerned Judicial Magistrate on the date of occurrence, i.e. on 20.03.2014, however, it was produced before the concerned Special Court only with the delay of 56 days and hence, it cannot be treated that there is a delay in producing the contraband before the Court.

4. This Court has carefully considered the contentions made and also perused the



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materials available on record.

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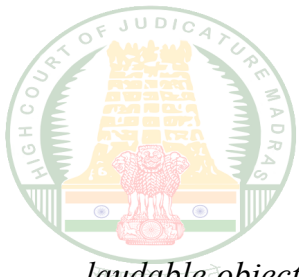
5. The sentence against the first accused has already been suspended in pursuant to filing of a criminal appeal in Crl.A.(MD)No.559 of 2024. In fact, one of the grounds raised in the said appeal is that there was a delay in producing the contraband before the court.

6. Even though the respondent State has filed a detailed counter, most of the objections are in respect of position of law in granting bail prior to the conviction. However, it is claimed that the petitioner has raised only vague and unsustainable ground and that shall not be the reason for suspending the sentence.

7. As stated already, the very same ground raised by a co-accused has been considered by this Court and his sentence has already been suspended. In the instant case, the accused has already been in incarceration for more than 1 ½ years and there is no possibility for taking up this appeal in the near future.

8. The Hon'ble Supreme Court of India held in the recent judgment in **Satender Kumar Antil vs. Central Bureau Of Investigation (2024 INSC 134)** that a prolonged incarceration and inordinate delay in case could not be the reasons for considering the bail application filed by the accused. The Hon'ble Apex Court has held that the word 'trial' will have to be given an expanded meaning, particularly, when an appeal or admission is pending for the purpose of granting bail by suspending the sentence. The relevant passage is extracted as below:-

46. Section 436A of the Code has been inserted by Act 25 of 2005. This provision has got a



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laudable object behind it, particularly from the point of view of granting bail. This provision draws the maximum period for which an undertrial prisoner can be detained. This period has to be reckoned with the custody of the accused during the investigation, inquiry and trial. We have already explained that the word 'trial' will have to be given an expanded meaning particularly when an appeal or admission is pending. Thus, in a case where an appeal is pending for a longer time, to bring it under Section 436A, the period of incarceration in all forms will have to be reckoned, and so also for the revision"

9. As the word "trial" has to be given an expanded meaning in the pending appeal also, I feel the petitioner is also entitled to the benefit of the above interpretation. This Court on various similar cases, by making reference to the judgment in **Satender Kumar Antil case**, has granted the relief of suspension of sentence and bail. The above position has been approved in the latest judgment of the Supreme Court in **Mohd. Mulim alias Hussain vs. State (NCT of Delhi)** reported in **2023 SCC Online SC 352**. In the said case, it is held that the general principle governing delay would be applied to the category of cases falling under NDPS Act also. In fact, it is stated that the rigour of Section 37 of NDPS Act would not come in the way in such a case, where the quicker adjudication of appeal involves liberty of a person. As there is no possibility to take up the appeal immediately, it is appropriate to consider the relief sought by the petitioner positively.

11. It has already been observed that the petitioner has been in incarceration for nearly 1 ½ years. Considering all these circumstances and the grounds raised in the appeal, I feel it



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is appropriate to suspend the sentence of imprisonment pending disposal of the appeal.

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12. Accordingly, this petition is allowed and the substantive part of the sentence of imprisonment alone is suspended and the accused is enlarged on bail on the following conditions:

- (i) that the petitioner is ordered to execute a bond for a sum of 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 (FAC), I Additional Special Court for NDPS Act Cases, Madurai;
- (ii) that the petitioner shall stay at Vellore and appear before the Judicial Magistrate No.1, Vellore, daily at 10.30 a.m until further orders.

sd/-
04/08/2025

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/08/2025

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

CM

To

1. The Additional District Judge(FAC),
I Additional Special Court for NDPS Act Cases,
Madurai.

2.The Judicial Magistrate No.1, Vellore.



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3. Do Through The Chief Judicial Magistrate, Vellore.

4. The Superintendent, Central Prison, Madurai.

5. The Inspector of Police, NIBCID, Dindigul.

6. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J.SELVAM, Advocate (SR-8405[I] dated 05/08/2025)

ORDER
IN

Crl.M.P.(MD)No.6022 of 2025
in Crl.A.(MD)No.847 of 2024

Date :04/08/2025

SBN/07.08.2025 6P/8C

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