

*Crl.MP.(MD)No.7956 of 2025  
in Crl.A.(MD)No.693 of 2025*

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

WEB COPY

Reserved on : 16.09.2025

Pronounced on : 19.09.2025

CORAM

**THE HONOURABLE MR JUSTICE K.MURALI SHANKAR**

CRL MP(MD) No.7956 of 2025

in

CRL A(MD) No.693 of 2025

M.Solai

**Appellant/  
2<sup>nd</sup> Accused**

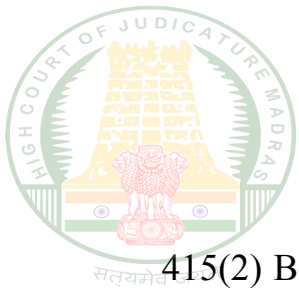
Vs

The State of Tamilnadu represented by  
The Inspector of Police,  
Madurai NIBCID Police Station,  
Madurai.  
(Crime No.32 of 2021)

**Respondent/  
Complainant**

**Prayer in CRL MP(MD).7956 of 2025 :** This Criminal Miscellaneous Petition filed under Section 430 B.N.S.S., praying to suspend the sentence imposed on the appellant in the order in C.C.No.304 of 2022 dated 28.02.2025 by the Principal Special Judge for EC & NDPS Act cases, Madurai and enlarge the petitioner on bail.

**Prayer in CRL A(MD).693 of 2025 :** This Criminal Appeal filed under Section



*Crl.MP.(MD)No.7956 of 2025  
in Crl.A.(MD)No.693 of 2025*

415(2) B.N.S.S., praying to call for the records in C.C.No.304 of 2022 on the file of the Principal Special Judge for EC & NDPS Act cases, Madurai and to examine the same and to set aside the judgment of conviction and the sentence of imprisonment inflicted upon the appellant / second accused and to set the appellant / second accused at liberty.

**For Petitioner:** Mr.G.Prabhakaran

**For Respondent:** Mr.B.Thanga Aravindh  
Government Advocate (Criminal Side)

### **ORDER**

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner / second accused by the learned Additional District Judge, Principal Special Court for EC & NDPS Act Cases, Madurai, in C.C.No. 304 of 2022 dated 28.02.2025, till the disposal of the criminal appeal.

2. The case of the prosecution is that on 13.06.2021, the Sub Inspector of Police, Avaniyapuram Police Station had received a secret information that the accused 1 to 4 are trafficking ganja and upon receiving the said information and on obtaining permission from the Inspector of Police, the Sub Inspector of Police visited the place along with his team, Village Administrative Officer and Village Assistant and mounted surveillance and at about 08.00 a.m., as per the information, they have intercepted an auto and a two wheeler and nabbed the



*Crl.MP.(MD)No.7956 of 2025  
in Crl.A.(MD)No.693 of 2025*

accused 1 to 3 and upon compliance with legal formalities, searched the auto and the accused and found 60 kgs of ganja and the same was seized under the cover of mahazar and also recovered a pistol and cell phone from the first accused, that on the basis of the confession of the first accused, they went to the house belonging to one Tazhamuthu in the occupation of one Muniyasamy and conducted a house search and recovered 130 kgs of ganja under the cover of mahazar and that they have recovered total contraband of 190 kgs of ganja and on the basis of the confession taken from the first accused, the other accused were arrested.

3. The respondent police, after completing the investigation, laid the final report against 11 accused including the petitioner herein and the case was taken on file in C.C.No.304 of 2022 for the offences under Sections 8(c) r/w 20(b)(ii)(C), 25 and 29(1) of the Narcotic Drugs and Psychotropic Substances (hereinafter referred as 'NDPS') Act and Section 25(1A) of Arms Act and the same was pending on the file of the Principal Special Court for EC & NDPS Act Cases, Madurai.

4. During trial, the prosecution examined 6 witnesses as P.W.1 to P.W.6,

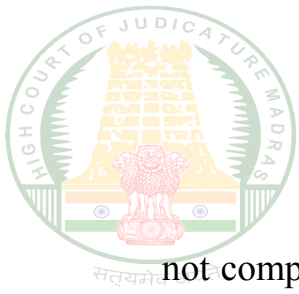


*Crl.MP.(MD)No.7956 of 2025  
in Crl.A.(MD)No.693 of 2025*

exhibited 35 documents as Ex.P.1 to Ex.P.35 and marked 11 material objects as M.O.1 to M.O.11. The defence examined 3 witnesses as D.W.1 to D.W.3 and exhibited 4 documents as Ex.D.1 to Ex.D.4.

5. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the impugned judgment dated 28.02.2025 convicting the petitioner and the accused 1 and 3 for the offences under Sections 8(c) r/w 20(b)(ii)(C) and 25 of the NDPS Act and sentenced them to undergo (each) 10 years rigorous imprisonment and to pay a fine of (each) Rs.1,00,000/-, in default to undergo simple imprisonment for a further period of 6 months and acquitted them for the offences under Section 29(1) of the NDPS Act and Section 25(1A) of Arms Act and also acquitted the other accused 4 to 11 from all the charges. Aggrieved by the impugned judgment of conviction and sentence, the second accused has preferred the present appeal along with the above miscellaneous petition for suspension of sentence.

6. The learned counsel appearing for the petitioner would submit that mandatory provisions under Sections 42(2), 50(1) and 57 of the NDPS Act were



*Crl.MP.(MD)No.7956 of 2025  
in Crl.A.(MD)No.693 of 2025*

not complied with, that the prosecution has not proved the recovery of contraband from all the accused, that the evidence of the prosecution witnesses are full of contradictions mainly with regard to search, recovery and arrest, that the prosecution has produced the contraband before the Court with a delay of more than one month and no explanation was given, that the prosecution except showing that the petitioner had travelled as a pillion rider along with the first accused has not produced any evidence to implicate him in the above case and that the trial Court, without considering the above material aspects, has proceeded to convict the accused, which is liable to be set aside.

7. The learned Government Advocate (Criminal Side) appearing for the respondent police would submit that the learned trial Judge has given proper reasons for arriving at a decision that the prosecution has proved that the conditions prescribed in Section 42(1) of the NDPS Act were duly complied with, that the prosecution has proved the conscious possession of 190 kgs of ganja by the accused 1 to 3 with the aid of presumption provided under Section 35 of the NDPS Act, that since the prosecution has produced necessary evidence to raise a presumption under Sections 35 and 54 of the NDPS Act, the accused including the



*Crl.MP.(MD)No.7956 of 2025  
in Crl.A.(MD)No.693 of 2025*

petitioner have not adduced any acceptable evidence to rebut the presumption and that the learned trial Judge, considering the evidence available on record and applying the legal position, has rightly convicted the accused 1 to 3 including the petitioner and acquitted the accused 4 to 11.

8. As rightly pointed out by the learned Government Advocate (Criminal Side), the learned trial Judge, considering the evidence of P.W.1 to P.W.3 and Ex.P.4, has held that the prosecution has proved that the conditions prescribed in Section 42(1) of the NDPS Act were duly complied with by P.W.2 and as such, the defence raised by the accused as procedures provided under Section 42 of the NDPS Act were not complied with, could not be accepted. Regarding compliance of Section 50 of the NDPS Act, the learned trial Judge, considering the evidence of P.W.1 to P.W.6, has come to a decision that the prosecution has proved recovery of contraband from the auto and house of the accused and thereby proved the conscious possession of 190 kgs of ganja by the accused 1 to 3 with the aid of presumption provided under Section 35 of the NDPS Act. As rightly pointed out by the learned Government Advocate (Criminal Side), the learned trial Judge, considering the evidence, has observed that since the defence has neither proved



*Crl.MP.(MD)No.7956 of 2025  
in Crl.A.(MD)No.693 of 2025*

nor pleaded any prejudice, non-compliance of Section 52(A) of the NDPS Act will not affect the case of the prosecution.

9. The learned counsel appearing for the petitioner would mainly contend that the petitioner was arrested at 01.30 a.m. itself on the date of occurrence and the defence have examined the witnesses and also produced the CCTV footage and that the petitioner was not arrested at the place of occurrence as alleged by the prosecution. The learned trial Judge, by observing that the accused have not taken any steps to subject the CCTV footage to scientific examination to rule out any manipulation and without any proof for the same, the CCTV footage could not be relied for any purpose and that D.W.3-mother of the petitioner has not produced the copy of the complaint alleged to have been given for taking action in this regard, has held that oral evidence of D.W.1 to D.W.3 are not sufficient enough to hold that the petitioner has been arrested on the early morning of the date of occurrence and not at the place and time of occurrence as stated by the prosecution.

10. The learned Government Advocate (Criminal Side) appearing for the



*Crl.MP.(MD)No.7956 of 2025  
in Crl.A.(MD)No.693 of 2025*

respondent police would submit that the petitioner was having 9 previous cases, out of which, 4 cases were disposed of and 5 cases including attempt to murder case are pending against him.

11. Considering the above facts, circumstances and gravity of the charges allegedly levelled and proved against the petitioner and also taking note of the fact that the impugned judgment was pronounced only on 28.02.2025 and the period of the imprisonment imposed and the period of incarceration, this Court is not inclined to suspend the sentence imposed on the petitioner at this point of time.

12. In the result, the Criminal Miscellaneous Petition is dismissed.

**19-09-2025**

CSM

To

- 1.The Additional District Judge,  
Principal Special Court for EC & NDPS Act Cases, Madurai.
- 2.Do through the Chief Judicial Magistrate,  
Madurai District.
- 3.The Inspector of Police,  
Madurai NIBCID Police Station,  
Madurai.
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.