



*Crl.M.P.(MD)No.6606 of 2025
in Crl.A.(MD)No.598 of 2025*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 24.09.2025

Pronounced on : 25.10.2025

CORAM

THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) No.6606 of 2025

in

CRL A(MD) No.598 of 2025

A.Karthick

**Petitioner/
Appellant/
Accused No.2**

Vs

State of Tamil Nadu represented by
The Inspector of Police,
Sellur Police Station,
Madurai City.
(Crime No.1589 of 2017)

**Respondent/
Complainant**

Prayer in CRL MP(MD).6606 of 2025 : This Criminal Miscellaneous Petition filed under Section 430 B.N.S.S., praying to suspend the sentence imposed by the learned I Additional Special Court for EC and NDPS Act cases, Madurai in C.C.No.398 of 2018 dated 21.04.2025 and enlarge the petitioner on bail pending disposal of the criminal appeal.



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Prayer in CRL A(MD).598 of 2025 : This Criminal Appeal filed under Section 415 B.N.S.S., praying to allow the above appeal and call for the records set aside the conviction and sentence passed by judgment dated 21.04.2025 in C.C.No.398 of 2018 of I Additional Special Court for NDPS Act cases, Madurai and acquit the appellant herein of all the charges.

For Petitioner: Mr.NA.Manimaran

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, I Additional Special Court for NDPS Act Cases, Madurai, in C.C.No.398 of 2018 dated 21.04.2025, till the disposal of the criminal appeal.

2. The case of the prosecution is that on 30.07.2017 at about 09.45 hours, upon receipt of the secret information from the known sources, the Sub Inspector of Police attached to Sellur Police Station, informed the same to his superior officers and went to weigh bridge situated in front of the ESI Hospital, Thathaneri main road along with team and at about 11.30 hours, they found a vehicle bearing Registration No.TN-48-M-5577 was proceeding from East to West and the same was intercepted and on seeing the police party, the driver of the said vehicle



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stopped the vehicle and fled away from the scene of occurrence and the petitioner / second accused, who was in the rear seat, was apprehended by the police party and they have found a white bag named as SVA cars brand containing 9 bundles of prohibited Ganja, totalling 225 kgs and that the petitioner gave a voluntary confession statement stating that himself and other accused had purchased Ganja from Andhra Pradesh for retail sale and stored it at Thiruvathavur and on that basis, FIR came to be registered in Crime No.1589 of 2017 for the offences under Sections 8(c) r/w 20(b)(ii)(C), 25, 27A and 29(1) of the Narcotic Drugs and Psychotropic Substances (hereinafter referred as 'NDPS') Act.

3. The respondent police, after completing the investigation, filed the final report for the offences under Sections 8(c) r/w 20(b)(ii)(C), 25, 27A and 29(1) of the NDPS Act and the case was taken on file in C.C.No.398 of 2018 and was pending on the file of the I Additional Special Court for NDPS Act Cases, Madurai.

4. During trial, the prosecution examined 7 witnesses as P.W.1 to P.W.7, exhibited 20 documents as Ex.P.1 to Ex.P.20 and marked 27 material objects as



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M.O.1 to M.O.27. The defence examined the petitioner as D.W.1. The defence adduced no documentary evidence.

5. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, passed the impugned judgment dated 21.04.2025 convicting the petitioner for the offence under Section 8(c) r/w 20(b)(ii)(C) of the NDPS Act 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 2 years and acquitted the accused 1, 3 and 4. 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 the respondent police has not followed the mandatory provisions under the NDPS Act and no clinching materials were available with the prosecution to prove the manner in which the seizure has been effected, that there is no corroboration between the evidence of prosecution witnesses and all the witnesses are official



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witnesses, that the prosecution has not taken any steps to prove their charges through the independent witnesses and that the petitioner is innocent and falsely implicated in the above case. He would further contend that the petitioner was arrested on 05.06.2019 in connection with the case in Crime No.75 of 2019 on the file of NIB-CID, Madurai and the petitioner is in prison till now.

7. The learned Government Advocate (Criminal Side) appearing for the respondent police would submit that the learned trial Judge, considering the evidence available on record, has come to a decision that the prosecution has complied with all the necessary mandatory requirements, that the entire contraband of 225 kgs of Ganja was recovered from the vehicle in which the petitioner was found available, that the learned trial Judge had categorically appraised the evidences and came to the conclusion that the case was proved beyond reasonable doubt by the prosecution and that therefore, the petitioner is not entitled to get the relief of suspension of sentence.

8. In the impugned judgment itself, the learned trial Judge has stated that the petitioner was in judicial custody in connection with the above case from



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31.07.2017 to 08.09.2017. It is not the case of the petitioner that while he was in judicial custody in connection with Crime No.75 of 2019, he was remanded to judicial custody for the present case also. It is not in dispute that the petitioner was sent to jail so far as the present case is concerned on the date of judgment i.e., on 21.04.2025.

9. At this juncture, it is necessary to refer the judgment of the Hon'ble Supreme Court in in ***Narcotic Control Bureau Vs. Lokesh Chadha*** reported in ***2021 SCC Online SC 178***,

“9.Where the trial has ended in an order of conviction, the High Court, when a suspension of sentence is sought under Section 389(1) of CrPC, must be duly cognizant of the fact that a finding of guilt has been arrived at by the Trial Judge at the conclusion of the trial. This is not to say that the High Court is deprived of its power to suspend the sentence under Section 389(1) of CrPC. The High Court may do so for sufficient reasons which must have a bearing on the public policy underlying the incorporation of Section 37 of the NDPS Act. At this stage, we will refer to the decision of a two-Judge Bench of this Court in Preet Pal Singh v State of Uttar Pradesh³ where Justice Indira Banerjee, speaking for the Court, observed as follows:



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“35. There is a difference between grant of bail under Section 439 of the CrPC in case of pre-trial arrest and suspension of sentence under Section 389 of the CrPC and grant of bail, post-conviction. In the earlier case there may be presumption of innocence, which is a fundamental postulate of criminal jurisprudence, and the courts may be liberal, depending on the facts and circumstances of the case, on the principle that bail is the rule and jail is an exception, as held by this Court in Dataram Singh v. State of U.P. and Anr. (supra).

However, in case of post- conviction bail, by suspension of operation of the sentence, there is a finding of guilt and the question of presumption of innocence does not arise. Nor is the principle of bail being the rule and jail an exception attracted, once there is conviction upon trial. Rather, the Court considering an application for suspension of sentence and grant of bail, is to consider the prima facie merits of the appeal, coupled with other factors. There should be strong compelling reasons for grant of bail, notwithstanding an order of conviction, by suspension of sentence, and this strong and compelling reason must be recorded in the order granting bail, as mandated in Section 389(1) of the Cr.P.C.”

10. The principles which must guide the grant of bail in a case under the NDPS Act have been reiterated in several decisions of this



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Court and we may refer to the decision in *State of Kerala v Rajesh*⁴.

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The High Court unfortunately, in the present case, has not applied its mind to the governing provisions of the NDPS 3 (2020) 8 SCC 645 4 (2020) 12 SCC 122 Act. On the basis of the material which emerged before the learned Special Judge and which forms the basis of the order of conviction, we are of the view that no case for suspension of sentence under Section 389(1) of CrPC was established. The order granting suspension of sentence under Section 389(1) of CrPC is unsustainable and would accordingly have to be set aside.”

10. Considering the above facts and circumstances and also the nature of the charges allegedly levelled and proved against the petitioner and taking note of the period of imprisonment imposed and the period of incarceration and the date of impugned judgment, this Court is not inclined to suspend the sentence imposed on the petitioner.

11. In the result, the Criminal Miscellaneous Petition is **dismissed**.

25-10-2025

CSM



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