



Crl.M.P.(MD)No.7734 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)Nos.7734 and 7544 of 2024

in Crl.A.(MD)Nos.640 and 633 of 2024

Crl.M.P.(MD)No.7734 of 2024

Ramesh,
S/o.Annakodi,
Kombaithozhu Village,
Andipatti Taluk,
Theni District.

Petitioner(s)

versus

State rep. by
The Inspector of Police,
Andipatti Police Station,
Theni District.

Respondent(s)

For Petitioner(s):

Mr.J.Jeya Aron Raja
Advocate

For Respondent(s):

Mr.T.Senthilkumar,
Additional Public Prosecutor

Crl.M.P.(MD)No.7544 of 2024

Saravanan,
S/o.Sahathevan,
Pitchampatti Village,
Andipatti Taluk,
Theni District.

Petitioner(s)



Crl.M.P.(MD)No.7734 of 2024

versus

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State rep. by
The Inspector of Police,
Andipatti Police Station,
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Respondent(s)

For Petitioner(s):

Mr.J.Jeya Aron Raja
Advocate

For Respondent(s):

Mr.T.Senthilkumar,
Additional Public Prosecutor

COMMON ORDER

The petitioners are accused Nos.1 and 2 in Crime No.313 of 2019 on the file of the respondent Police. They were arrested by the respondent Police on 26.07.2019 that they were in possession of 18 kgs. of ganja and they were prosecuted for the offence under Sections 8(c) r/w. 20(b)(ii)(B) and 25 of NDPS Act. After the investigation, final report was filed as against the petitioners and the same was taken on file in C.C.No.207 of 2021 on the file of the I Additional Special Court for NDPS Act Cases, Madurai. In conclusion of trial, the trial Court, by its Judgment dated 30.05.2024, found the petitioners guilty for the offence under Section 8(c) r/w. 20(b)(ii)(B) of NDPS Act and convicted and sentenced them to undergo rigorous imprisonment for 8 years each and to pay a fine of Rs.80,000/- each, in default, to



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undergo simple imprisonment for a further period of 12 months each. Challenging the Judgment of conviction and sentence, the 1st accused has filed an appeal in Crl.A.(MD)No.640 of 2024 and the 2nd accused has filed a separate appeal in Crl.A.(MD)No.633 of 2024 and both the appeals have been admitted by this Court on 02.08.2024 and 29.07.2024 respectively. The petitioners have also moved these petitions to suspend the sentence imposed by the trial Court. Since both the appeals are arising out of the conviction and sentence imposed by the trial Court in C.C.No.207 of 2021, both the petitions are taken up together and disposed of by this common order.

2. The learned counsel appearing for the petitioners submits that the recovery was made by P.W.1 and P.W.2. The Investigating Officer, namely, P.W.3, was not examined before the trial Court as he was not alive at the time of trial. As per the prosecution, P.W.3 has not accompanied P.W.1 and P.W.2, however, his signature was found in the recovery mahazar. The learned counsel further submits that the ganja to the tune of 18 kgs. was said to have been recovered from the petitioners and Athatchi was prepared in the place of occurrence, however, the petitioners' signatures were not obtained in the Athatchi. Further, the mandatory provisions under Section 50 of NDPS Act has not been complied with. The learned counsel further submits that the petitioners are in jail from the date of conviction, i.e. from 30.05.2024 and they have also paid the fine amount. Therefore, he seeks to suspend the sentence imposed



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on the petitioners. The petitioners are ready to furnish a Government surety for their release on bail and also for their availability during the appeal proceedings.

3. The learned Additional Public Prosecutor submits that P.W.3-Investigating Officer was not alive at the time of trial and therefore, he was not examined before the trial Court. However, the prosecution has proved its case through P.W.1 and P.W.2, who arrested the petitioners and recovered the contraband. According to him, the contention of the learned counsel for the petitioners is wrong that all the documents which have been prepared in the place of occurrence were produced before the Investigating Officer, in which, the Investigating Officer has countersigned and thereafter, the said documents were submitted before the trial Court and therefore, it cannot be treated that P.W.3-Investigating Officer has not accompanied P.W.1 and P.W.2, however, his signature was found in the recovery mahazar . Further, there was no body search and the contraband has been recovered only from the bag.

4. This Court considered the rival submissions made and perused the materials available on record.

5. The petitioners have raised certain arguable points, which can be considered only during the final hearing of the appeals. However, the appeals could not be taken up for final hearing for want of time. Considering the points raised by the



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petitioners, period of incarceration and for the reasons that the appeals could not be taken up immediately, this Court is inclined to allow these petitions.

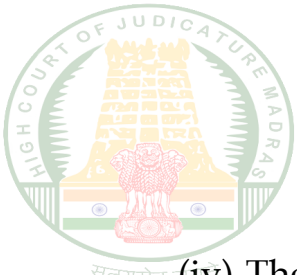
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6. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeals and the petitioners are ordered to be enlarged on bail on the following conditions:

(i) The petitioners shall execute a bond for Rs.25,000/- (Rupees twenty five thousand only)each, with two sureties each for a like sum to the satisfaction of the I Additional Special Court for NDPS Act Cases, Madurai.

(ii) Out of the two sureties, one surety must be a Government Servant and another surety must be a respectable person in their locality, either elected people representatives or the persons who are having permanent business establishments. The sureties shall file an affidavit before the respondent Police, by ensuring that the petitioners will not indulge in any other offence in future and they will be available during the appeal proceedings.

(iii) The petitioners shall also file an undertaking affidavit before the respondent Police that they will not indulge in any further offence in future and they will be available during the appeal proceedings.



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(iv) The petitioners shall report before the respondent Police daily at 10.30 a.m.
until further orders.

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Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

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

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE,
ANDIPATTI POLICE STATION,
THENI DISTRICT.

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

+2 CC to M/s.J.JEYA ARON RAJA, Advocate (SR-4165 & 4166 [I] dated 09/04/2025)



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ORDER IN
Crl.M.P.(MD)Nos.7734 and 7544 of 2024
in Crl.A.(MD)Nos.640 and 633 of 2024
Date :09/04/2025

SA/SAR. /09.04.2025/7P/7C

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