



Crl.MP(MD) No.9415 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :21.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.MP(MD) No.9415 of 2024
in Crl.A(MD) No.732 of 2024

A.Prabhu

... Petitioner

Vs.

State of Tamil Nadu
Represented by
the Inspector of Police,
NIB-CID Trichy PS,
Trichy District.
Crime No.20 of 2021

... Respondent

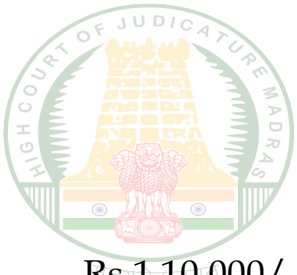
Prayer: Petition filed under Section 430 of BNSS to suspend the sentence imposed on the petitioner by the Additional District and Sessions Judge, Special Court for EC and NDPS Act Cases, Pudukottai in CC No.28 of 2022 dated 30.01.2024 and enlarge the petitioner on bail pending disposal of the criminal appeal.

For Petitioner : Mr.Manimaran

For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor

ORDER

The petitioner is accused No.2. He was arrested along with A1 on 22.09.2021 and the respondent police is said to have recovered 132 Kgs of ganja from a vehicle bearing TN 72 A 2567. The petitioner was tried in CC.No.28 of 2022, convicted by the trial Court for the offence under Section 8(c) r/w 20(b)(ii)(C) of the NDPS Act and sentenced to undergo 11 years rigorous imprisonment and to pay a fine of



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Rs.1,10,000/-, in default to undergo 1 year simple imprisonment. As against the conviction and sentence imposed by the trial Court, the petitioner has filed an appeal in Crl A(MD)No.732 of 2024 along with this application to suspend the sentence imposed on him by the trial court.

2.The learned counsel appearing for the petitioner submits that the petitioner is not owner of the alleged vehicle and A1 is the owner of the vehicle. He was not aware of the availability of contraband in the vehicle. Even according to the prosecution the petitioner is only a cleaner of the vehicle. He was arrested on 22.09.2021 and he is in jail for more than 3 ½ years.

3.The learned Counsel further submits that the alleged contraband said to have been recovered on 21.09.2021, was produced before the Judicial Magistrate Court No.III, Trichy only on 17.11.2021 and thereafter it was produced before the Special Court on 24.11.2021.

4.On this ground raised by the learned Counsel for the petitioner, this Court by its earlier order directed the learned Additional Public Prosecutor to get the instructions as to the reasons for producing the contraband before the Judicial Magistrate Court on 17.11.2021, which was recovered on 21.09.2021.

5.The learned Additional Public Prosecutor submits that the sample was produced before the Court concerned on the same day. However the learned Counsel



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for the petitioner by referring the seal in Form-95 submits that this contraband said to have been recovered on 22.09.2021 was produced before the Judicial Magistrate Court No.III, Trichy on 07.11.2021 and a specific question has been made to the investigating officer in this regard and it is admitted by the investigating officer that the seal bears date 07.11.2021. However the learned Additional Public Prosecutor submits that it was Covid-19 pandemic period and therefore the seal was affixed belatedly. This Court is unable to accept the contention for not producing the contraband immediately to the Judicial Magistrate concerned.

6.This Court considered the rival submissions made and perused the material placed on record.

7.The petitioner has raised certain arguable points, which 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 the points raised by the petitioner and for the reason that the appeal could not be taken up immediately and the petitioner's period of incarceration, this Court is inclined to allow this petition.

8. Accordingly this petition is allowed and 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 executing a bond for Rs.1,00,000/- (Rupees One Lakh only) with two sureties each for a like sum, one of the sureties



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must be a government servant, to the satisfaction of the Additional District and
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Sessions Judge, Special Court for EC and NDPS Act Cases, Pudukottai.

9.The petitioner shall also file an affidavit that he will not indulge in any further
offence. The petitioner shall report before the Namakkal Police Station at 10.30am
daily.

sd/-
21/03/2025

/ TRUE COPY /

24/03/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSK
TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
SPECIAL COURT FOR EC AND NDPS ACT CASES, PUDUKOTTAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

3 THE INSPECTOR OF POLICE,
NIB-CID TRICHY PS,
TRICHY DISTRICT.

4 THE INSPECTOR OF POLICE,
NAMAKKAL POLICE STATION,
NAMAKKAL.

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



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+1 CC to M/s.NA.MANIMARAN, Advocate (SR-3311[I] dated 24/03/2025)

ORDER

IN

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in Crl.A(MD) No.732 of 2024

Date :21/03/2025

SA/SAR. /24.03.2025/5P/7C

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