

**Crl.MP(MD)No.12218 of 2024**

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

**DATED : 24.02.2025**

**CORAM:**

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**Crl.MP(MD)No.12218 of 2024  
in  
Crl.A(MD)No.991 of 2024**

**Boobalan**

**: Petitioner**

**Vs.**

**The State through  
The Inspector of Police,  
Odaipatti Police Station,  
Theni District.  
Cr.No.52/2022**

**: Respondent**

**PRAYER:** Petition filed under Section 430(1) BNSS [389(1) CrPC] to suspend the sentence imposed against the petitioner in CC.No.743 of 2022 dated 30.06.2023 passed by the District and Sessions Judge, Communal Clash Cases Court, Madurai and enlarge the petitioner on bail pending disposal of the appeal.

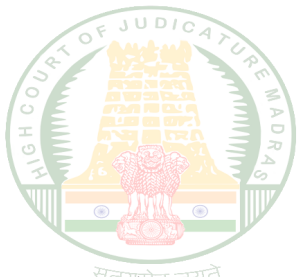
**For Petitioner : Mr.R.Vignesh**

**For Respondents : Mr.P.Kottaichamy  
Government Advocate (Crl. Side)**

**\*\*\*\*\***

**ORDER**

**The petitioner / accused was found guilty by the learned District and Sessions**



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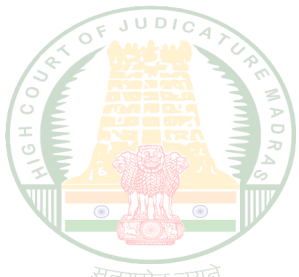
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Judge, Communal Clash Court, Madurai, in CC.No.743 of 2022 and he was convicted and sentenced to undergo rigorous imprisonment for ten years and to pay a fine of Rs.1,00,000/-, with default clause for the offence u/s.8(c) r/w 20(b)(ii)(c) of the NDPS Act. As against the conviction and sentence, the petitioner has filed Crl.A(MD)No.991 of 2024. Pending the appeal, the petitioner has moved this application to suspend the sentence.

2.The prosecution case is that the petitioner / first accused along with the other accused were found in possession of commercial quantity of Ganja.

3.Learned Counsel for the petitioner submitted that the mandatory requirements as per Sections 42, 50, 52A & 57 of the NDPS Act have not been complied with. The prosecution case is that after arresting this petitioner, they went in an Autorickshaw and recovered around 46 kgs of Ganja. However, neither in the recovery mahazar of this petitioner nor in the recovery mahazar of the co-accused / third accused, the Auto Driver is shown as a witness.

4.He further submitted that though the fourth accused was acquitted by the trial Court, such benefit was not extended to the petitioner herein. The petitioner is



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languishing in jail for the past three years and therefore, he requested for suspending the sentence.

5.Learned Government Advocate (Crl. Side) submitted that the contraband was kept in a bag and not in the body of the petitioner and as such, the requirement of Section 50 of the NDPS Act does not arise. He further submitted that after the arrest, the contraband was produced before the jurisdictional Judicial Magistrate. The Magistrate has directed to produce the accused along with the contraband before the concerned Sub-Court. Thereafter, it was produced before the concerned Sub-Court, however, with a delay of 11 days. Therefore, it could not be presumed that there is a violation of Section 57 of the Act.

6.This Court considered the rival submissions made on either side and perused the materials placed on record.

7.The petitioner has projected that some of the mandatory provisions have been violated in this case. However, those aspects have been discussed by the trial Court in the judgment itself, by referring to various decisions of the Hon'ble Supreme Court. It appears that apart from the present case, the petitioner was also convicted in another case under the NDPS Act.



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8.Considering the nature of allegation, the quantum of contraband involved and the antecedent of the petitioner, this Court is not inclined to entertain this application for suspension of sentence. Moreover, the material contradictions alleged by the petitioner has to be decided whilst the final disposal of the appeal. Accordingly, this miscellaneous petition stands dismissed.

Registry is to prepare the typedset of papers and list the main appeal for final disposal.

sd/-  
24/03/2025

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/04/2025  
Sub-Assistant Registrar (C.S. I / II / III / IV)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

NST/GK

TO

1 THE DISTRICT AND SESSIONS JUDGE,  
COMMUNAL CLASH CASES, MADURAI.

2 THE INSPECTOR OF POLICE, ODAIPATTI POLICE STATION,  
THENI DISTRICT.

3 THE SUPERINTENDENT  
CENTRAL PRISON, MADURAI.

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

COPY TO:  
THE SECTION OFFICER,  
CRIMINAL SECTION,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER  
IN  
CRL MP(MD) No.12218 of 2024  
in  
Crl.A(MD)No.991 of 2024  
Date :24/03/2025

SS/SAR- /05/04/2025/ 5P/6C

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