



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated

09.10.2025

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.M.P.(MD).No.14056 of 2025

in

CrI.A.(MD).No. 473 of 2023

Vincent Selvaraj @ Thambu

...Petitioner/Appellant/Accused No.2

Vs.

The State rep by its,
The Inspector of Police,
Kudal Pudur Police Station,
Madurai District.

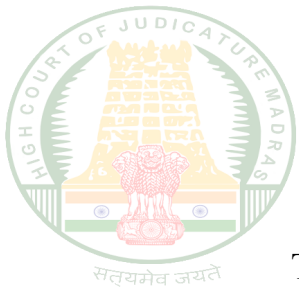
(In Crime No.1805 of 2020)

... Respondent/Respondent/Complainant

PRAYER : Criminal Miscellaneous Petition has been filed under Section 430 of BNSS,to suspend the sentence imposed on the petitioner/appellant/Accused No.2 passed by the learned II Additional Special Court for NDPS Act Cases, Madurai in C.C.No.235 of 2021 dated 20.04.2023 and enlarge the petitioner.

For Appellant : Mr. Abudu Kumar Rajarathinam,
Senior Counsel for M.Jegadeesh Pandian

For Respondent : Mr.S.Ravi
Additional Public Prosecutor



ORDER

The petitioner/appellant/A2 in C.C.No.235 of 2021, on the file of the II Additional District Judge/Special Court for NDPS Act Cases, Madurai, dated 20.04.2023 he has filed this appeal, challenging the conviction and sentence imposed against him on 20.04.2023 wherein, they are convicted for the offence under Section 8(c) r/w 20(b)(ii)(C), 25 and 29(1) of the NDPS Act for the alleged possession of 27 kg of ganja and directed to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs. 1,00,000/- (Rupees One Lakh only) in default, to undergo, 12 months Simple Imprisonment.

2. The brief facts of the case as follows:

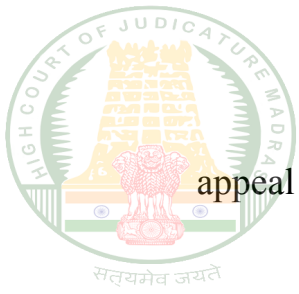
According to the prosecution they are jointly found in the possession of the 27 kgs of Ganja in the two wheeler bearing Registration TN 43 5592. The case of the prosecution is that the PW2 received the secret information about the illegal possession of the contraband on 14.12.2020 at 8.00 a.m. He recorded the information and general diary and reduced writing under Ex.P.6 and submits same to his immediate higher officer and after obtaining the form the section 42 NDPS Act and the team went to the place of occurrence and informer identified the appellant and other accused at time when they are occurrence place. When they are dealing with the 27 Kgs Ganja the police officer reached the occurrence place and on receiving



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them drying to escape from the place of occurrence and A1 sustained injuries and A2 nabbed. Thereafter they conducted search and they disclosed about the Ganja and the same recovered and same was taken remaining contraband M.O.3 was properly sealed and thereafter confession recorded and the both appellants arrested and thereafter the brought police station and FIR was registered and detailed report under Section 57 of NDPS Act was prepared and sent to the immediate superior and thereafter, the appellant was produced before the learned Judicial Magistrate along with the contra band and remanded in custody. P.W.3 continued the investigation and filed the final report after obtaining the necessary report and the same was taken on file in C.C.No.235 of 2021 and the learned trial Judge summoned the accused and served copies under Section 207 of Cr.P.C.,

2.1. The learned trial Judge after considering the oral and documentary evidence, acquitted the accused for the offence under Section 25 of the NDPS Act and convicted the accused for the offence under Sections 8(c) r/w 20(b)(ii)(C), 25 and 29 (1) of the NDPS Act, and sentenced him to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.1,00,000/- (Rupees One Lake only) in default, to undergo, 12 months Simple Imprisonment for the offence under Section 8(c) r/w 20(b)(ii)(C), 25 and 29 (1) of the NDPS Act and Challenging the same, present

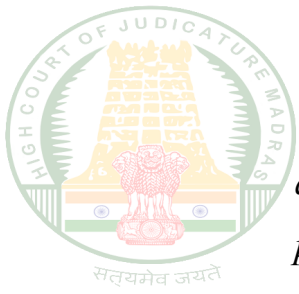


appeal has been filed along with suspension of sentence petition.

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3.The learned counsel for the petitioner would submit that A1 had filed the appeal in CrI.A.(MD).No.130 of 2024 along with suspension of sentence petition in CrI.M.P.(MD).No.1900 of 2024 and this Court passed the following order vide dated 04.04.2025:

8.The petitioner has questioned the inception of the case itself that he was arrested on 12.12.2020, when he was sleeping in his house, whereas, the prosecution has projected the case as if this petitioner was in possession of 27 kg of ganja along with A2 on 14.02.2020 at about 08.15 hours in a Motor Cycle, near Madurai Anaiyur, BSNL Roundana. The possibility of transporting 27 kg of ganja in a two wheeler is also questionable and it needs to be considered. The document dated 13.12.2020 with postal receipts now placed before this Court discloses that there was a representation about the arrest of this petitioner on 12.12.2020 by his mother. The learned counsel has also produced a document, which was received under the RTI Act, from the Human Rights Commission that the complaint of the petitioner's mother was taken cognizance by the Humal Rights Commission in Diary No.580/CR 2020. Moreover, the other case regisrered as against this petitioner in Crime No.1388 of 2020 was ended in acquittal. That apart, this petitioner has also undergone five years of imprisonment during trial



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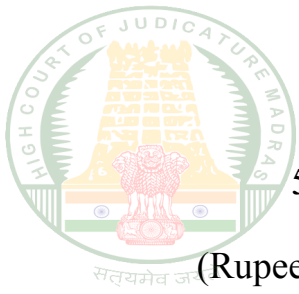


as well as after conviction. The conviction itself is for a period of 10 years and he has already completed half of his sentence. This petitioner is also having a right of filing an application to produce additional evidence under Section 391 of Code of Criminal Procedure.

9.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, his period of incarceration since 2020 and for the reasons that the appeal could not be taken up immediately, this court is inclined to suspend the sentence imposed on the petitioner.

4.The evidence available on record is inseparable and indivisible against both the accused. This petitioner has also undergone 5 years of imprisonment during the trial as well as after conviction. One of the case pending against him and the other accused is also entered into acquittal. Therefore, this Court is inclined to apply the principle of parity and inclined to grant suspension of sentence.

5.Accordingly, 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 the following conditions:



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5.1.The petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only)with two sureties each for a like sum to the satisfaction of the II Additional Special Court for NDPS Act cases, Madurai. The sureties must be respectablepersons in the Society, in order to ensure the conduct and the availability of this petitioner during the appeal proceedings.

5.2.The petitioner shall report before the II Additional Special Court for NDPS Cases, Madurai daily at 10.30 am., until further orders.

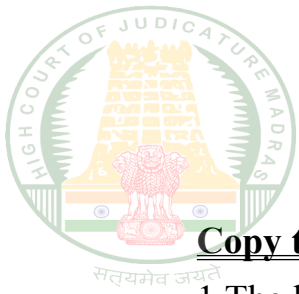
5.3.The petitioner shall file an affidavit of undertaking before the respondent police that he will not involve in any offence in future.

5.4.On violation of any of the above conditions by the petitioner, the respondent police shall move an application for cancellation of the bail.

09.10.2025

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Note: Issue order copy on 09.10.2025.



Copy to

1. The learned II Additional District Judge,
Special Court for NDPS Act Cases,
Madurai.

2. The Inspector of Police,
Kudal Pudur Police Station,
Madurai District.

3. The Superintendent of Prison,
Central Prison,
Madurai.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

5. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN.J.

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