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Crl.M.P.No.1269 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2026

CORAM:

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.No.1269 of 2026

in

Crl.A.No.79 of 2026

Raja

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
NIB – CID, Chennai Unit,
Chennai – 600 039.

... Respondent

PRAYER: Criminal Miscellaneous Petition is filed under Section 430(1) of the Bharatiya Nagarik Suraksha Sanhita, to suspend the sentence imposed by the learned Special Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai, in C.C.No.112 of 2020 dated 27.11.2025 and enlarge the petitioner on bail pending disposal of the criminal appeal.

For Petitioner : Mr.S.Ashok Kumar

For Respondent : Ms.J.R.Archana
Government Advocate (Criminal Side)

ORDER

This Criminal Miscellaneous Petition has been filed seeking suspension of sentence of imprisonment, imposed by the learned Special



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Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai, in C.C.No.112 of 2020, vide judgment dated 27.11.2025.

2. The brief facts of the case are that on 24.12.2019, based on secret information, the respondent and his team went to the place of occurrence, intercepted the petitioner/appellant and found that he was in illegal possession of 6 kilograms of Methamphetamine. The contraband was seized in the presence of the witnesses and the petitioner was arrested. Thereafter, a case in Crime No.118 of 2019 was registered for the offences under Section 8(c) r/w 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985. After completion of the investigation, the case was taken on file by the II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai, in C.C.No.112 of 2020. On the side of the prosecution, PW1 to PW6 were examined and Ex.P1 to Ex.P12 and Material Objects P.M.O.1 were marked. On the side of the accused, DW1 was examined and no document was marked. The trial Court, after hearing the arguments on either side and on considering the entire materials available on record, found the petitioner/accused guilty and convicted him vide the impugned judgment dated 27.11.2025.



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3. The conviction and sentence imposed against the petitioner/appellant are as follows:-

<i>Under Section</i>	<i>Sentence</i>
8(c) r/w 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985	Ten years of rigorous imprisonment and a fine of Rs.1,00,000/-, in default, to undergo three months simple imprisonment.

4. The submissions of the learned counsel appearing for the petitioner/appellant are as follows:-

4.1. The entire case of the prosecution is doubtful. PW1, who registered the aforesaid case, continued with the investigation, which vitiates the prosecution case.

4.2. The presence of PW4, the then Sub-Inspector of Police attached to Pallikaranai Police Station, who is stated to have witnessed the occurrence and signed the Mahazar, is also doubtful.

4.3. The petitioner had filed an application in Crl.M.P.No.975 of 2025 under Section 91 Cr.P.C., seeking production of the extracts of General Diary, Duty Roster and the vehicle diary relating to the two wheeler used by PW4, in order to disprove the presence of PW4 at the scene of occurrence. The trial Court had allowed the petition. However, despite the same, the prosecution failed to produce the said documents,



thereby, giving rise to an adverse inference being drawn against the prosecution and doubt in the prosecution case. However, the trial Court failed to consider the same while passing the judgment.

4.4. The Mahazar witnesses are police witnesses. Though the contraband is stated to have been produced before the Judicial Magistrate Court on the same day of recovery, i.e., on 24.12.2019 and directions were issued to produce the same before the Special Court immediately, the contraband was kept in the police station for six days and was produced only on 30.12.2019. No explanation has been offered by the prosecution for the delay in producing the contraband before the Special Court. Further, no evidence has been let in by the prosecution to prove that there was no tampering with the contraband. This assumes significance particularly when all the witnesses are police witnesses and no independent witness has been examined. In such circumstances, there is every chance of tampering with the contraband.

4.5. There is a violation of procedures contemplated under Standing Order No.1/89 and also Section 52 A of the NDPS Act, which has also been admitted by PW1 in his deposition before the trial Court, thereby, shaking the very foundation of the prosecution case. In cases of such non-compliance, a duty is cast on the prosecution to satisfy the Court that the same does not affect its case against the accused.



4.6. There are arguable points available in the Criminal Appeal, which is unlikely to be taken up for final hearing in the near future and the petitioner/appellant has a fair chance of succeeding in the appeal.

4.7. The fine amount has not been paid by the petitioner/appellant. The petitioner was granted bail during trial and he has not misused the liberty granted to him. Further, he has no previous case under the NDPS Act.

4.8. Hence, the sentence imposed on the petitioner/appellant may be suspended and that he may be enlarged on bail.

5. In support of his contention at paragraph No.4.5 *supra*, the learned counsel for the petitioner relied on the judgment of the Hon'ble Apex Court in *Surepally Srinivas vs. State of Andhra Pradesh (Now State of Telangana)* reported in 2025 SCC OnLine SC 683, the relevant portion of which reads as under:-

“12. We do not propose to hold that a conviction should be interdicted for any minor breach of Standing Order No. 1/89. What is required is a substantial compliance of the statutory provisions and the procedure laid down in such standing order.

13. In *Bharat Aambale* (*supra*), this Court held that the purport of Section 52-A, NDPS Act read with Standing Order



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No. 1/89 extends beyond mere disposal and destruction of seized contraband and serves a broader purpose of strengthening the evidentiary framework under the NDPS Act. This decision stresses upon the fact that what is to be seen is whether there has been substantial compliance with the mandate of Section 52-A and if not, the prosecution must satisfy the court that such non-compliance does not affect its case against the accused. This is also what has been held in *Kashif* (supra).

14. In the present case, from the evidence on record, it can be seen and it is clear that the seized contraband was not properly sealed. Coupled with this is the fact of the seized contraband not being produced before the trial court prior to 3rd July, 2010. It is difficult to accept the prosecution case that though there may not have been strict compliance of Standing Order No. 1/89, the seized contraband was not tampered at all. Keeping of the seized contraband by PW-3 in a separate room in his office for fifteen days could give rise to an allegation that the seized contraband was by itself substituted and some other items planted to falsely implicate the accused. To avoid suspicious circumstances and to ensure fair procedure in respect of search and seizure, it is always desirable to follow the standing order which provides suitable guidance for the officers investigating crimes under the NDPS Act. Should there be any departure, the same must be based on justifiable and reasonable grounds. We are, satisfied, on appreciation of the evidence on record, that the possibility of tampering during this fifteen-day period cannot be totally ruled out and that not only



has there been no substantial compliance of the standing order, the departure has also not been justified.

15. We have also found from the materials on record that there has been clear non-compliance with the provisions contained in Section 52-A of the NDPS Act. Either possibly due to lack of experience of the investigating officer or his lack of knowledge of the relevant provisions of the NDPS Act, there were lapses which were duly noted by the Sessions Judge. Thus, we are unable to hold that there was primary and reliable evidence before the trial court in respect of the offence committed. The onus of proving that compliance with Section 52-A did not affect the case of the prosecution has not been duly discharged by the prosecution.”

6. The submissions of the learned Government Advocate (Criminal Side) appearing for the respondent are as follows:-

6.1. Based on the information received from the informant, the respondent and his team proceeded to the scene of occurrence and intercepted the petitioner in the presence of the witnesses. Upon search, the petitioner was found to be in illegal possession of 6 kilograms of Methamphetamine, which was seized in the presence of the witnesses and produced before the Judicial Magistrate Court, on the same day, with a direction to produce before the Special Court. The respondent took the



contraband to the police station, kept it in safe custody and produced it before the Special Court on 30.12.2019.

6.2. Merely because there was a delay in producing the contraband before the Special Court, it cannot be inferred that there was tampering with the contraband. Likewise, non-examination of independent witnesses also would not lead to a conclusion that the accused was falsely implicated.

6.3. The trial Court, after taking into consideration the oral and documentary evidence produced by the prosecution, rightly found the petitioner/appellant guilty and convicted and sentenced him, as stated above.

7. Having heard the learned counsel for the petitioner/appellant and learned Government Advocate (Criminal Side) appearing for the respondent and upon perusal of the materials on record, this Court is of the opinion that with regard to the non-compliance of Standing Order No.1/89 and also Section 52 A of the NDPS Act, it is the admitted case of PW1 that there has been non-compliance of the said provisions. Further, no evidence has been adduced by the prosecution to satisfy the Court that such non-compliance has not affected its case. It is also admitted that the contraband which was seized on 24.12.2019 was



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produced before the Special Court only on 30.12.2019 and no explanation has been offered for such delay. This assumes significance when the witnesses are police witnesses, coupled with the fact that the petitioner has raised doubt with regard to the presence of PW4, who is stated to have witnessed the seizure, arrest and recovery and despite the order passed by the trial court in Crl.MP.No.975/2025, the documents have not been produced by the prosecutor.

8. In view of the above, this Court is of the view that the petitioner/appellant has made out a *prima facie* case for grant of relief of suspension of sentence. Accordingly, till the disposal of the appeal, the sentence imposed on the petitioner is suspended and he is enlarged on bail, subject to the following conditions:-

“(i) The petitioner/appellant is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Special Judge, II Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai;

(ii) The petitioner/appellant shall appear before the trial Court on the first working day of every English calendar month at 10.30 a.m., until further orders.”



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9. Accordingly, the Criminal Miscellaneous Petition stands ordered.

24.03.2026

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To

1. The Special Judge,
II Additional Special Court for Exclusive Trial
of Cases under NDPS Act,
Chennai.
2. The Inspector of Police,
NIB – CID, Chennai Unit,
Chennai – 600 039.
3. The Public Prosecutor,
High Court of Madras.
4. The Superintendent,
Central Prison,
Puzhal, Chennai.



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A.D.JAGADISH CHANDIRA, J.

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