



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27-04-2026

CORAM

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

CRL MP No. 6291 of 2026

in

CRL A No.1291 of 2024

R. Prabhakaran @ Thakkali Prabha

..Petitioner(s)

Vs

State rep.by, Inspector of Police,
T-4 Madhuravoyal Police Station,
Chennai.

..Respondent(s)

Criminal miscellaneous petition filed under Section 430(1) of BNSS, seeking to suspend the sentence in imposed in the judgment dated 08.10.2024 against the petitioner herein in CC.No.171 of 2022 on the file of the Principal Special Judge, Special Court under EC and NDPS Act, Chennai and enlarge the petitioner on bail pending disposal of the Crl.A.No.1291 of 2024 and to pass such other order or direction as this Hon'ble Court.

For Petitioner(s): Mr.M.Soundar Vijay Arul Ram

For Respondent(s): Ms.J.R.Archana, GA(Crl. Side)

ORDER

This criminal miscellaneous petition has been filed by the petitioner seeking suspension of sentence imposed by the learned Principal Special Judge, Special Court under EC and NDPS Act, Chennai, in CC.No.171 of 2022, vide judgment dated 08.10.2024.



2. The conviction and sentence imposed against the petitioner, vide impugned judgment are as follows:-

<i>Under Section</i>	<i>Sentence</i>
258(2) BNSS for offences U/s.8(c) r/w.20(b), (ii)(C) of NDPS Act 1985	To undergo 12 years rigorous imprisonment and pay a fine of Rs.1,20,000/-, in default, to undergo 6 months rigorous imprisonment.
8(c) r/w.25	To undergo 12 years rigorous imprisonment and pay fine of Rs.1,20,000/-, in default, to undergo 6 months of rigorous imprisonment.

3.The case of the prosecution is that on 30.03.2022, at approximately 11:00 hours, PW1 (Sub-Inspector Velraj) of the T-4 Maduravoyal Police Station received telephonic information while on duty that several individuals, Thakkali Praba (A1), Gilli Arun (A2), Koli Babu (A3), Vellai Mani (A4) and Poongavanam (A5), were planning to sell ganja between 12:00 and 13:00 hours at a vacant lot opposite Captain TV Office in Vanagaram. PW1 reduced this information to writing (marked as Ex.P1) and obtained necessary permission from his superior, Inspector Siva Ananth (PW5). Subsequently, a police team consisting of PW1, PW2, PW3, and others reached the spot equipped with NDPS kits. Upon arrival, they observed one person on a two-wheeler and four others approaching the scene on foot. Following identification by the informant,



the team attempted to secure the suspects; however, A2 to A5 managed to escape, while the petitioner (A1) was apprehended. PW1 informed the petitioner of the information received and his rights under Section 50 of the NDPS Act, specifically the right to search in the presence of a Gazetted Officer or a Magistrate. The petitioner consented to a search by the police team. In the absence of independent public witnesses, who reportedly refused to join, the search was conducted in the presence of official witnesses (PW2 and PW3). During the search, the petitioner produced a white gunny bag containing 21.300 kgs. of ganja, along with polythene covers and a stapler. PW1 drew two 50-gram samples (S1 and S2), sealed the remaining contraband (P1), and seized the motorcycle, which was found to be using a fake registration plate (TN12-AK-6968). Following the seizure (Ex.P3 and Ex.P4) and the recording of a voluntary confession at the spot, the petitioner was arrested and subsequently remanded to judicial custody. Following the petitioner's confession, the co-accused (A2 to A5) were arrested on various dates and remanded. The seized properties were produced before the Principal Special Court, and samples were sent to the Forensic Science Laboratory for chemical analysis, which confirmed the substance as ganja. After a detailed investigation, a charge sheet was filed on 16.08.2022 and taken on file as C.C.No.171/2022. During the trial, the prosecution examined five witnesses (PW1 to PW5) and marked nine exhibits and six material objects, while the defense examined seven witnesses. When questioned under Section 313(1)(b) of the Cr.P.C., the accused denied the



allegations as false. Ultimately, by a judgment dated 08.10.2024, the trial court acquitted the co-accused (A2 to A5) but found the petitioner/appellant guilty and convicted him as stated above.

4.Learned counsel appearing for the petitioner submitted that, while the petitioner is admittedly classified as a "history sheeter" with cases pending in Virugambakkam, Koyambedu, and Maduravoyal, the respondents have adopted the improper method of filing false cases to curtail his activities. He contended that the petitioner was actually taken into illegal custody on 29.03.2022, primarily because he refused to appear before the Assistant Commissioner to sign a bond under Section 110 Cr.P.C. To substantiate this claim, the petitioner's sister (DW7) testified that she contacted DW1 (Sub-Inspector Sudhakar), a member of the Special Team, while the petitioner was in illegal custody. She produced call logs and a transcript of the conversation between her, the Sub-Inspector, and the petitioner, which was marked as Exhibit D2 along with a certificate under Section 65B of the Indian Evidence Act. Furthermore, information regarding the petitioner's cases obtained via RTI Act from the Deputy Commissioner of Police was marked as Exhibit D3. Learned counsel argued that through these witnesses and documents, the petitioner proved by preponderance of probabilities that he was in illegal custody on the alleged date of the occurrence, rendering the prosecution's case entirely false.



He further noted that despite the alleged seizure taking place in an open area near Captain TV Office, no independent witness joined to corroborate the recovery. He submitted that the petitioner has been in custody since his arrest on 30.03.2022, having undergone a substantial portion of his sentence. He also submitted that there are arguable points in the criminal appeal, which is unlikely to be taken up for final hearing in the near future and the petitioner has a fair chance of succeeding in the appeal and hence, the sentence imposed on the petitioner may be suspended and the petitioner / appellant may be enlarged on bail.

5. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent opposed the grant of suspension of sentence, submitting that the petitioner is a history sheeter with several cases of a grievous nature pending across various police stations. She noted that while some cases ended in acquittal, others are currently pending trial, including a case under Section 302 IPC in S.C. No. 211 of 2022. She further contended that the trial court, after carefully considering the evidence on record, rightly found the petitioner guilty and properly rejected the defense's contention regarding illegal custody. Given the petitioner's criminal antecedents and the serious nature of the charges, she argued that the conviction and sentence are well-founded and do not warrant suspension.



6. Heard the learned counsel on either side and perused the materials on record.

7. Having gone through the materials, this Court finds that the petitioner has made out a *prima facie* case for the grant of suspension of sentence and bail. Furthermore, the petitioner has already undergone a substantial period of his sentence. The Hon'ble Supreme Court, in the judgment rendered in ***Narcotic Control Bureau vs. Lakshwinder Singh (2025 SCC Online SC 366)***, held at Paragraph No. 7 as follows:

“7. There is no dispute about the fact that the Appellate Court is bound by constraints of Section 37 of the NDPS Act while considering the prayer for the grant of bail during the pendency of an appeal. However, if in the facts of the case, an accused has undergone a substantial part of the substantive sentence and, considering the pendency of criminal appeals, his appeal is not likely to be heard before the accused undergoes the entire sentence, the Appellate Court can exercise the power of releasing the accused on bail pending the appeal. If the relief of bail is denied in such a factual situation only on the grounds of Section 37 of the NDPS



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Act, it will amount to the violation of the rights of the accused under Article 21 of the Constitution of India.”

8. Considering the facts and circumstances of the case and also considering the period of incarceration, this Court is inclined to grant the relief of suspension of sentence and bail to the petitioner, until the disposal of the criminal appeal, on certain conditions.

9. Accordingly, the substantive sentence of imprisonment alone is suspended, and the petitioner/appellant is ordered to be released on bail upon his depositing a sum of Rs. 50,000/- (Rupees Fifty Thousand only) towards the fine amount and a further sum of Rs. 1,00,000/- (Rupees One Lakh only) before the Trial Court, and upon executing a bond for a sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum, to the satisfaction of the learned Principal Special Judge, Special Court under EC and NDPS Act, Chennai. One of the said sureties shall be a blood relative who shall also execute a bond to the satisfaction of the Court, and on further conditions that:

(i) The sureties shall affix their photographs and left thumb impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Passbooks to ensure their identities.

(ii) The petitioner shall appear before the Trial Court on the first



working day of every English calendar month at 10:30 a.m. until further orders. In the event the petitioner is unable to appear before the Trial Court to comply with this condition due to his attendance at trial before any other Court, he shall be permitted to file an application under Section 317 of the Cr.P.C. (or the corresponding Section 355 of the BNSS, 2023), providing proof of his appearance before such other Court.

10. This criminal miscellaneous petition stands ordered accordingly.

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27-04-2026



To

1. The Inspector of Police,
T-4 Madhuravoyal Police Station,
Chennai.
2. The Principal Special Judge,
Special Court under EC and NDPS Act,
Chennai.
3. The Central Prison,
Puzhal-1.
4. The Public Prosecutor,
Madras High Court.



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A.D.JAGADISH CHANDIRA, J.

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