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CRL MP NO. 17182 OF 2025

CRL A NO. 959 OF 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-01-2026

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL MP NO. 17182 OF 2025

IN

CRL A NO. 959 OF 2022

Chinnadurai
S/o. Maria Sebastin,
No.10, Visalatchi Kuppam,
Ernavoor, Chennai - 600 057.

Petitioner/A2

Vs

The State Rep by,
The Inspector of Police,
H1, Washermenpet Police Station,
Chennai 600 081.

Respondent(s)

CRL A No. 959 of 2022

1. Ravichandran @ Powder Ravi
S/O. Rajalingam, No.5, Kasipuram B
Block, Kasimedu, Chennai. 13.

2.Chinnadurai
S/O. Maria Sebastin, No.10, Visalatchi
Kuppam, Ernavoor, Chennai 57.

Petitioner(s)

Vs

1. State Rep By Inspector Of Police
Inspector of Police, H1, Washermenpet
Police Station, Chennai 600 081.



Respondent(s)

PRAYER: Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, 2023 praying to suspend the sentences imposed in order dated 04.07.2022 passed by the Principal Special Court under EC and NDPS Act at Chennai in C.C.No.38 of 2021 and enlarge the petitioner on bail, pending disposal of the above Appeal.

For Petitioner : Mr.K.Rahul
for Mr.K.Thenrajan

For Respondent : Mr.S.Udayakumar
Government Advocate (Crl. Side)

ORDER

The Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner in C.C.No.38 of 2021 by the order dated 04.07.2022 by the Principal Special Court under EC and NDPS Act at Chennai and enlarge the petitioner on bail, pending disposal of the above Appeal.

2.The petitioner/A2 in C.C.No.38 of 2021 was convicted by the Trial Court by the judgment dated 04.07.2022 for the offences under Sections 8(c) r/w 20(b)(ii)(C) and 29(1) of the Narcotic Drugs & Psychotropic Substances Act, 1985 (in short 'NDPS Act') and sentenced to undergo twelve (12) years imprisonment and to pay a fine of Rs.1,50,000/-, in default, to undergo six



months imprisonment, for the offence under Sections 8(c) r/w 20(b)(ii)(C) of NDPS Act and for the offence under Section 29(1) of NDPS Act, sentenced to undergo seven years imprisonment and to pay a fine of Rs.50,000/-, in default, to undergo six months imprisonment. The sentences are directed to be run concurrently. Aggrieved by the said conviction, the petitioner filed Crl.A.No.959 of 2022 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

3.The contention of the petitioner is that in this case PW1 is the Inspector of Police, H-1 Washermenpet Police Station, Chennai. He receives specific information on 18.07.2020 that at the junction of Cemetery Road and M.C.Road at Royapuram, three persons were transporting Ganja in an Auto. After getting permission from PW5/Assistant Commissioner of Police, Tondiarpet, PW1 along with his police party went to the spot and found three persons sitting in an Auto. On seeing the police, they attempted to escape but they were rounded up and caught. Thereafter they disclosed the name as Ravichandran @ Powder Ravi, Chinnadurai and Nagaraj @ Pambu Nagaraj, who are A1 to A3 in this case. The petitioner is arrayed as A2.

4.(i) According to the petitioner, the contraband was not seized from him and it was recovered from the Auto. The petitioner neither travelled in the Auto



nor hired the Auto. He has got no connection with the Auto and recovery.

(ii) In this case all the witnesses, namely, PW1, PW2, PW3 and PW5 are police personnel and PW4 is the Forensic Expert. The entire seizure and mahazar said to have made in the presence of police personnel, namely, PW2 and PW3.

(iii) Admittedly, in this case, the search, seizure and recovery had taken place in a public road at the morning hours at about 8.00 a.m. There is no reason given for not enlisting the public witnesses.

(iv) In this case Section 50 of NDPS Act is in complete violation. Further, the mandatory condition under Section 41(2) of NDPS Act not followed. Though it was stated that information notice was approved by the Assistant Commissioner of Police, Tondiarpet, there is no endorsement.

(v) Ex.P1 is the Notice under Section 41 of NDPS Act. In Ex.P1 there is a recording that approval was authorised through phone to proceed but the same was not authenticated thereafter. Hence, there is clear violation of Section 41(2) of NDPS Act.

(vi) Likewise, samples not taken as per Section 52-A of NDPS Act and Report under Section 57 of NDPS Act not filed. Hence, there are clear violations of mandatory conditions. But the trial Court failed to consider the same.



5. The learned counsel further submitted that in this case the petitioner earlier filed bail petition in Crl.M.P.No.2334 of 2023 along with A1. This Court, by an order dated 01.03.2023 granted bail to A1 on health grounds and dismissed the bail petition of the petitioner recording that petitioner has got one previous case of similar nature.

6. The learned counsel further submitted that in the similar case in Crime No.883 of 2019, the petitioner was acquitted. As such, the petitioner has no previous cases pending against him or any conviction. The present case is the only case, in which the petitioner was convicted and he is in prison from 04.07.2022 till date. He further submitted that in this case, the co-accused/A3 was granted bail by this Court in Crl.M.P.No.1330 of 2023 in Crl.A.No.827 of 2022 by order dated 31.07.2025. A3 in this case had 15 previous cases and for him bail was granted. The petitioner has got good case to succeed on merits and also he has been in prison for more than 5 years. He further submitted that he is ready to even argue the appeal but the co-accused in this case are taking time. Hence, prayed for granting suspension of sentence to the petitioner.

7. The learned Government Advocate (Crl. Side) filed two counters, first counter during July, 2025 and second counter during September, 2025. In the first counter, 62 previous cases enlisted against A1, two cases against the



petitioner/A2 of which, one ended in acquittal and 15 previous cases against A3.

In the second counter, the date of arrest of the petitioner is shown as 18.07.2020, his conviction on 04.07.2022 and the petitioner is in jail from 18.07.2020 throughout the period of trial, thereafter from his conviction till date. As of September, 2025, the petitioner has been in prison for a period of five years, two months and five days. With regard to the contention of the petitioner about violation of the mandatory provisions, he has strongly objected and submitted that Ex.P1 was recorded, the search was conducted and samples were taken in presence of PW2 and PW3. PW4/Forensic Expert confirmed the contraband is Ganja. Hence, opposed the bail petition but fairly submitted that in this case, the co-accused/A1 and A3 were granted bail by this Court.

8.Considering the submissions made on either side, the period of incarceration undergone by the petitioner and the petitioner has made out a *prima-facie* case for his appeal and since there are violations of mandatory provisions, the petitioner's conviction needs reconsideration. Further there are arguable points involved in this appeal and it would take some time for the appeal to be taken up for final hearing, this Court is inclined to suspend the sentence imposed on the petitioner.



9. Accordingly, the substantive sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the above appeal and he 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 trial Court.

10. Further, the petitioner shall appear before the Trial Court once in six months on the first working day at 10.30 a.m., until the disposal of the criminal appeal and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.

11. Accordingly, the Criminal Miscellaneous Petition is ordered.

09.01.2026

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Note: Issue order copy on 09.01.2026



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CRL MP NO. 17182 OF 2025



CRL A NO. 959 OF 2022

M. NIRMAL KUMAR, J.

rsi

To

1. The Principal Special Judge,
Principal Special Court under EC and NDPS Act,
Chennai.
2. The Inspector of Police,
H1, Washermenpet Police Station,
Chennai 600 081.
3. The Superintendent,
Central Prison, Puzhal,
Chennai.
4. The Public Prosecutor
High Court, Madras.

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