



s IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2026

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.16337 of 2025
in Crl.A.No.1362 of 2025

A.Ajmal

... Petitioner /Accused

Vs.

The State Represented by,
The Inspector of Police,
Masinagudi Police Station,
The Nilgiris District,
In Crime Number.44/2022

... Respondent / Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 430 of BNSS, praying to suspend the sentence imposed in Judgment and Conviction passed in C.C.No.162/2022 dated 11.08.2025 on the file of Learned Additional Judge/Presiding Officer, Special Court under EC/NDPS Act Cases, Coimbatore and release the petitioner on bail pending criminal appeal.

For Petitioner : Mr.M.Dinesh

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

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner in C.C.No.162 of 2022 by judgment dated



11.08.2025 on the file of learned Additional Judge/Presiding Officer, Special Court under EC/NDPS Act Cases, Coimbatore and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

2. The petitioner/accused in Calendar Case No.162 of 2022 was convicted by the Trial Court by judgment dated 11.08.2025 for the offences under Section 225 (B) of IPC and Section 8(c) r/w 21(c) of the NDPS Act and sentenced as below;

<i>Section</i>	<i>Sentence</i>
225 (B) of IPC	3 months SI
8(c) R/W 21(c) of NDPS Act	15 years RI and to pay fine of Rs.1,50,000/- (id) to undergo one year RI

Aggrieved by the same, he filed Crl.A.No.1362 of 2025 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

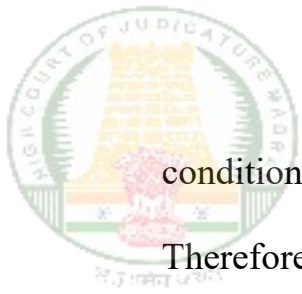
3. It is the case of the prosecution that the petitioner was intercepted at Kakkanalla Check Post on 13.05.2022 at about 06.45 p.m., which is within the limits of the respondent Police Station; that the petitioner was driving a swift car; that when the petitioner was asked to alight from the car, the petitioner sought permission to attend nature's call; that thereafter, he fled from the scene of occurrence; that 100 grams of MDMA was found under the driver's seat of



the car; that thereafter, on 21.05.2022, at about 05.00 p.m., the petitioner was arrested in a hotel and he was in possession of 15 grams of MDMA and since the petitioner was in possession of commercial quantity, he was arrested for the offences under Section 225 (B) of IPC and u/s.8(c) r/w 21(C) and 25 of NDPS Act, 1985.

4.The learned counsel for the petitioner would submit that the case of the prosecution is improbable; that the allegation that he abandoned the car and fled from the scene of occurrence on the pretext of attending the nature's call cannot be believed; that the owner of the car PW7 had deposed that he had no connection with the petitioner; that the subsequent arrest and seizure also suffers from several infirmities as the officers, who made the seizure have made several inconsistent statements; and that the accused is in custody from 21.05.2022 and prayed for suspending the sentence.

5.Learned Government Advocate (Crl. Side) *per contra* submitted that merely because the owner of the car had deposed that the petitioner is not known to him, the fact that the petitioner had used the car cannot be disbelieved; that the prosecution had seized a total quantity of 115 grams of contraband, which was found to be Methamphetamine; that the petitioner had possessed commercial quantity of contraband; that the petitioner has not satisfied the twin



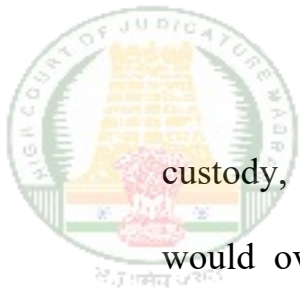
conditions under Section 37 of the NDPS Act for suspension of sentence.

Therefore, the petitioner is not entitled for suspension of sentence.

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6. Admittedly, the petitioner has no previous antecedents. The alleged occurrence with regard to seizure of car with the contraband is said to have taken place on 13.05.2022. PW7, the registered owner of the car had in his deposition stated that the petitioner is not known to him. PW7 also had not stated that during the occurrence period he had lent the car to some one. Thus, the prosecution has not proved as to how the car came in possession of the petitioner, which is an important fact. Further the submission of the learned counsel for the petitioner that the prosecution case that on the pretext of attending nature's call, the petitioner fled from the scene of occurrence is highly improbable requires consideration in this appeal, as there is force in the said submission. If the seizure on 13.05.2022 is doubtful then the quantum seized from the petitioner on 21.05.2022 is small quantity. Thus this Court is of the view that the petitioner has satisfied the twin conditions under Section 37 of the NDPS Act.

7. Further, the Hon'ble Supreme Court in *Rabi Prakash v. State of Odisha*, reported in **2023 SCC OnLine SC 1109**, while considering the bail application of an accused charged for an offence under NDPS Act, pending investigation, had held that if an accused had spent substantial period in



custody, his fundamental right under Article 21 of the Constitution of India would override, the statutory embargo under the NDPS Act. The relevant observations read as follows:

"4. As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent – State has been duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and a half years in custody. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act."

8. Admittedly, the petitioner is in custody from 21.05.2022. The sentence of imprisonment is for a fixed period of 15 years. The points raised by the petitioner has to be considered in the above appeal. The appeal is not likely to be taken up in the near future. Further, the Hon'ble Supreme Court in the aforesaid case had held that the fundamental right under Article 21 of the Constitution must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.



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9.Considering the above facts, the period of incarceration suffered by the petitioner ; that there are no previous cases against the petitioner, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

10.Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioner is suspended till the disposal of the above Criminal appeal and the petitioner is ordered to be released on bail on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.10,000/-, with two sureties, each for a like sum to the satisfaction of the learned Additional Judge/Presiding Officer, Special Court under EC/NDPS Act Cases, Coimbatore;
- (ii) The petitioner shall pay the fine imposed by the trial Court;
- (iii)The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and
- (iv)The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any 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.

24.02.2026

Tsg

Note: Issue order copy by 24.02.2026

To

1. The Additional Judge/Presiding Officer,
Special Court under EC/NDPS Act Cases,
Coimbatore.
2. The Superintendent,
Central Prison,
Coimbatore.
3. The Inspector of Police,
Masinagudi Police Station,
The Nilgiris District,
In Crime Number.44/2022
4. The Public Prosecutor,
High Court, Madras.



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Crl.M.P.No.16337 of 2



SUNDER MOHAN, J.

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in Crl.A.No.1362 of 2025

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