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CRL MP No. 16396 of

CRL A No.1370 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-01-2026

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THE HONOURABLE Mr. JUSTICE SUNDER MOHAN

CRL MP No. 16396 of 2025

IN

CRL A No.1370 of 2025

1. Ganesan@gnanesan@gnaneswaran

2. Rajan @ N. Rajan

Petitioner(s)

Vs

Union of India
The Intelligence Officer
Narcotics Control Bureau
Chennai Zonal Unit, Chennai-90

Respondent(s)

PRAYER

To suspend the sentence imposed on the petitioners in C.C.No.206 of 2018 by the Special Judge, I Additional Special Court for exclusive trial of Cases under NDPS Act, Chennai by its judgement dated 22.08.2025 and release the petitioners on bail pending determination of this Criminal Appeal No.1370 of 2025 by this Hon'ble Court

For Petitioner(s): Mr.S.Jayaprakash

For Respondent(s): Mr.N.P.Kumar
Special Public Prosecutor

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioners, by judgment dated 22.08.2025, passed in C.C.No.206 of 2018, by the learned Special Judge, I Additional Special Court



for exclusive trial of Cases under NDPS Act, Chennai, pending disposal of the above criminal appeal and enlarge the petitioners on bail.

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2.The petitioners, who were arrayed as A1 and A2 before the learned Special Judge, I Additional Special Court for exclusive trial of Cases under NDPS Act, Chennai, were convicted and sentenced as follows:

<i>Name of the accused</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
A1&A2	Section 8(c) r/w 20(b)(ii)(C) of NDPS Act, 1985	10 years rigorous imprisonment and fine of Rs.1,00,000/-, in default to undergo 6 months simple imprisonment each
A1	Section 8(c) r/w 25 of NDPS Act, 1985	10 years rigorous imprisonment and fine of Rs.1,00,000/-, in default to undergo 6 months simple imprisonment

The aforesaid sentences imposed on A1 were ordered to run concurrently.

3.The gist of the prosecution case is that the petitioners were found in possession of 190 kilograms of ganja on 04.07.2018 at about 01.13 hours, when they were intercepted by the respondent.

4.The learned counsel for the petitioners would submit that the petitioners were arrested on 04.07.2018 and were in custody during the trial and after conviction, the were in incarceration for more than 7½ years out of the total



sentence of 10 years and considering the period of incarceration, their sentences may be suspended.

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5.Mr.N.P.Kumar, learned Special Public Prosecutor appearing for the respondent, *per contra*, submitted that the petitioners who were found in possession of commercial quantity of ganja are bound to satisfy the conditions under Section 37 of the NDPS Act; that the prosecution had established that the petitioners have committed the offences and that there are two previous cases against the petitioners and therefore, the petitioners are not entitled to suspension of sentence.

6.Admittedly, the petitioners are in custody from 04.07.2018 for nearly 7½ years and the sentence imposed on the petitioners is 10 years. The Hon'ble Supreme Court in ***Narcotic Control Bureau Vs. Lakhwinder Singh*** reported in ***2025 SCC OnLine 366***, has held as follows:

“7.At this stage, the learned ASG appearing for the petitioner submitted that the power of the Court was constrained by Section 37 of the NDPS Act, which is applicable even at the stage of an appeal. He relies upon a decision of this Court in the case of Dadu vs. State of Maharashtra (2000) 8 SCC 437. 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



WEB COPY

CRL MP No. 16396 of.

CRL A No. 1370 of.



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

7.Considering the fact that the petitioners have served 3/4th of their sentence and the appeal is not likely to be taken up for hearing in the near future and in view of the aforesaid observation of the Hon’ble Supreme Court, this court is inclined to suspend the sentences imposed on the petitioners.

8.Accordingly, this criminal miscellaneous petition stands allowed and the sentences imposed on the petitioners are suspended till the disposal of the above criminal appeal and the petitioners are ordered to be released on bail on payment of fine and on the following conditions:

- (i)The petitioners shall execute a bond for a sum of Rs.1,00,000/-, with two sureties, each for a like sum to the satisfaction of the learned Special Judge, I Additional Special Court for exclusive trial of Cases under NDPS Act, Chennai;
- (ii)The petitioners 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 Aadhaar card or Bank pass Book and mobile numbers to ensure their identity; and



(iii) The petitioners 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 they are not able to appear before the Trial Court on any day, they 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 their absence, as directed by the Trial Court.

19-01-2026

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To

1. The Intelligence Officer
Union of India
Narcotics Control Bureau, Chennai
Zonal Unit Chennai-90

2. The Special Judge
I Additional Special Court for exclusive trial of Cases under NDPS Act
Chennai

3. The Superintendent
Central Prison, Chennai

4. The Public Prosecutor
Madras High Court, Chennai



WEB COPY

CRL MP No. 16396 of.

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SUNDER MOHAN, J.

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