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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-11-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL MP No.20502 of 2026
in
CRL A No.657 of 2025

Pandiswaran
S/o.Veeramani,
No.17, Sandhai Street,
Thevaram, Theni.

...Petitioner/Appellant/
A2

Vs

State represented by,
The Inspector of Police
NIB-CID, Kancheepuram.

...Respondent/
Respondent/
Complainant

Prayer : Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C., praying to suspend the sentence imposed on the Petitioner by order dated 28.01.2025 in C.C.No.557 of 2022 by the Learned Special Judge, I Additional Special Court for Exclusive Trial of cases under NDPS Act, Chennai and release the petitioner on bail till the disposal of the above Crl.A.No.657 of 2025.

For Petitioner(s): Mr.O.Chembulingam

For Respondent(s): Ms.Sharada Vivek
Additional Public Prosecutor

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The Criminal Appeal challenges the Judgment passed in C.C.No.557 of 2022 by the learned I Additional Special Judge, I Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai, holding the petitioner guilty of the offences under Sections 8(c) r/w 29(1) and 8(c) r/w 20(b)(ii)(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as "*the NDPS Act*") and sentencing him to undergo 10 years of RI and to pay a fine of Rs.1,00,000/- in default to undergo SI for a period of three months for each of the offences. The sentences were ordered to run concurrently.

2. Aggrieved by the same, the petitioner/A2 has preferred Crl.A.No.657 of 2025 before this Court along with the instant criminal miscellaneous petition.

3. The case of the prosecution is that the petitioner/A2, along with A1 was travelling in a car and was intercepted by the respondent; that on the search of the vehicle, it was found that 60 kgs of ganja was concealed in the bonnet in a specially designed chamber; and that thereafter, the FIR was registered, and upon investigation, a final report was filed.

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4. The trial Court held the petitioner and A1 guilty and sentenced him as stated above.

5. The learned counsel for the petitioner would submit that out of 10 years of imprisonment, the petitioner had served almost 4½ years (1584 days, as on 27.10.2026). He relied upon a Judgment of the Hon'ble Supreme Court in ***NCB vs Lakhwinder Singh,*** reported in ***2025 Live Law (SC) 191,*** in support of his submission that long period of incarceration would amount to violation of the rights of the accused under Article 21 of the Constitution of India, notwithstanding the bar under Section 37 of the NDPS Act.

6. Heard the learned Additional Public Prosecutor, who confirms the fact that the petitioner was in custody for 1584 days as on 27.10.2026 as against the total imprisonment of 10 years.

7. The Hon'ble Supreme Court in Lakhwinder Singh’s case cited supra had held as follows:

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> *"6. In the case of fixed-term sentences, if the Courts start adopting a rigid approach, in a large number of cases, till the appeal reaches the stage of the final hearing, the accused would undergo the entire sentence. This will be a violation of the rights of the accused under Article 21 of the Constitution. Moreover, it will defeat the right of appeal.*
>
> *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 Maharashtra2. 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 Act, it will amount to the violation of the rights of the accused under Article 21 of the Constitution of India."*

8. The petitioner is in custody for almost five years. The appeal is not likely to be taken up in the near future. Taking into consideration the long incarceration and the above extracted observations by the Hon'ble Supreme Court, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

9. Accordingly, this criminal miscellaneous petition stands allowed, and the sentence imposed on the petitioner/A2 is suspended till

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the disposal of the above criminal appeal, and the petitioner/A2 is ordered to be released on bail on the following conditions:

(a).The petitioner/A2 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 I Additional Special Judge, I Additional Special Court for Exclusive Trial of Cases under NDPS Act, Chennai,;

(b).The petitioner/A2 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

(c).The petitioner/A2 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.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

Note :Issue order copy on 04.11.2026.
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To

1. I Additional Special Judge,
   I Additional Special Court for Exclusive Trial
   of Cases under NDPS Act,
   Chennai.

2. The Inspector of Police
   NIB-CID, Kancheepuram,
   Kancheepuram District.

3. The Superintendent of Prison,
   Central Prison Puzhal.

4. The Public Prosecutor,
   High Court of Madras.

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SUNDER MOHAN, J.

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