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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-11-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL MP No.20107 of 2026
in
Crl.A.No.1307 of 2026

Dhanalakshmi
W/o Sasi Kumar,
No.335, Thalapathi Street,
Anna Nagar,
Nallur Somangalam,
Kanchipuram – 600 069.

...Petitioner/Appellant/
Sole Accused

Vs

Union of India,
Rep. by
Superintendent of Customs,
RSI-AIR, New Custom House,
Meenambakkam,
Chennai – 600 027.

...Respondent/Respondent/
Complainant

Prayer: Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, praying to suspend the sentence imposed in Judgement dated 11.09.2026 against the petitioner herein in C.C.No.223 of 2022 on the file of the Principal Special Judge, Special Court for NDPS Act, Chennai and release the petitioner.

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For Petitioner : Mr.M.G.Martinmanivannan

For Respondent: Mr.N.P.Kumar
Special Public Prosecutor for Customs

ORDER

The Criminal Appeal challenges the Judgment passed in C.C.No.223 of 2022 by the learned Principal Special Judge, Principal Special Court for Exclusive Trial of Cases Under EC & NDPS Act, Chennai, holding the petitioner guilty of the offence under Section 8(c) r/w 22(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as "***the NDPS Act***") and sentencing him to undergo 10 years RI and to pay a fine of Rs.1,00,000/- in default to undergo RI for a period of one year for the aforesaid offence.

2. It is the case of the prosecution that on secret information, the respondent intercepted the appellant who was about to board a flight from Chennai to Colombo; that they found that the appellant had concealed the contraband in her rectum; that initially it was found that it contained MDP2P, and on subsequent lab tests, it was found that it contained 99 grams of methamphetamine and thus the appellant committed the aforesaid offence.

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3. The learned counsel for the petitioner would submit that the petitioner is in custody ever since 10.12.2021, the date of the original remand; that the petitioner has suffered almost five years of imprisonment out of the sentence of ten years imposed by the trial Court; that the petitioner has no bad antecedents; and that in view of the long incarceration and the fact that the appeal is not likely to be taken up in the near future, he prayed for bail.

4. The learned Special Public Prosecutor for the respondent, *per contra*, submitted that the petitioner was found in possession of a commercial quantity of contra band; that unless the petitioner satisfies the twin conditions under Section 37 of the NDPS Act, the petitioner is not entitled to bail; and that since the petitioner has not satisfied the twin conditions, he is not entitled to bail and prayed for dismissal of the petition and also filed the counter affidavit to that effect.

5. It is seen that admittedly, the petitioner has been in custody from 10.12.2021. She has no bad antecedents. The appeal is not likely to be taken up in the near future. The Hon'ble Supreme Court in ***NCB vs***

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Lakhwinder Singh, reported in ***2025 Live Law (SC) 191*** had held as follows:

> *"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."*

6. That apart, the petitioner has almost completed half of the sentence imposed by the Trial Court. Therefore, considering all the above facts and the aforesaid observations of the Hon'ble Supreme Court, this Court is of the view that the petitioner is entitled to the relief of Suspension of Sentence on the condition that the petitioner pays the fine amount imposed by the Trial Court i.e., Rs.1,00,000/- (Rupees One Lakh Only).

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7. 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:

(a). The petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of C.C.No.223 of 2022 before the learned Principal Special Judge, Principal Special Court for Exclusive Trial of Cases Under EC & NDPS Act, Chennai and 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 Additional District Judge, II Additional Special Court for NDPS Act Cases, Chennai;

(b) 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

(c).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 she is not able to appear before the Trial Court on any day, she 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 her absence, as directed by the Trial Court.

10-11-2026

Note: Issue order copy today.
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To

1. The Principal Special Judge,
   Principal Special Court for Exclusive
   Trial of Cases Under EC & NDPS Act,
   Chennai.

2. The Additional District Judge,
   II Additional Special Court for NDPS Act Cases,
   Chennai.

3. The Superintendent of Customs,
   RSI-AIR, New Custom House,
   Meenambakkam,
   Chennai – 600 027.

4. The Superintendent of Prison,
   Special Prison for Women,
   Chennai.

5. The Public Prosecutor,
   High Court of Madras,
   Chennai – 600 104.

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SUNDER MOHAN, J.

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