



Crl.M.P.(MD)No.6020 of 2025

in Crl.A.(MD)No.522 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.03.2026**

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THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.6020 of 2025

in Crl.A.(MD)No.522 of 2025

Rafiq Raja

... Petitioner

versus

State through the Inspector of Police,
Keeraithurai Police Station,
Madurai District.
(Crime No.247 of 2021)

... Respondent

Petition filed under Section 430 of BNSS 2023, to suspend the conviction and sentence imposed by the learned I Additional Special Court for NDPS Act Cases, Madurai, dated 18.04.2023 made in C.C.No.372 of 2021 and enlarge the petitioner on bail.

For Petitioner	: Mr.V.Kathirvelu, Senior Counsel for Mr.C.Karthikeyan
For Respondent	: Mr.T.Senthil Kumar, Additional Public Prosecutor



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ORDER

The petitioner is the 2nd accused in C.C.No.372 of 2021. He was tried along with the 1st accused that they were found in possession of 25 kgs. of ganja. He was arrested on 18.05.2021 and prosecuted along with the 1st accused for the offence under Section 8(c) r/w. 20(b)(ii)(C) of the NDPS Act before the I Additional Special Court for NDPS Act Cases, Madurai. After the trial, the trial Court, by its Judgment dated 18.04.2023, found the accused persons guilty for the offence under Section 8(c) r/w. 20(b)(ii)(C) of the NDPS Act and convicted and sentenced them to undergo rigorous imprisonment for 10 years each and to pay a fine of Rs.1,00,000/- each, in default, to undergo simple imprisonment for 12 months each. Challenging the Judgment of conviction and sentence, the petitioner has filed an appeal before this Court in Crl.A.(MD)No. 522 of 2025 and the same was admitted by this Court on 29.04.2025. Along with the appeal, the petitioner has filed this petition seeking to suspend the sentence imposed by the trial Court.



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2. The learned Senior Counsel appearing for the petitioner submits that the petitioner was tried along with the 1st accused and both the accused were found guilty and convicted and sentenced by the trial Court, by Judgment dated 18.04.2023. The 1st accused has filed a separate appeal before this Court in Crl.A.(MD)No.1059 of 2023 and the same was allowed by this Court, by its Judgment dated 26.11.2024. However, this petitioner/2nd accused has not preferred any appeal at that time and he has preferred this appeal only recently along with this petition to suspend the sentence. The learned Senior Counsel further submits that there is no independent witness and the mandatory provision of Section 50(1) of NDPS Act has not been complied with. According to the learned Senior Counsel, the petitioner is in jail from the date of arrest, ie. from 18.05.2021, for more than four years and ten months. Therefore, the learned Senior Counsel seeks to suspend the sentence imposed on the petitioner by the trial Court.

3. The learned Additional Public Prosecutor fairly admits that the co-accused, namely, 1st accused has filed a separate appeal in Crl.A.(MD)No.1059 of 2023 and the case had ended in acquittal. However, the learned Additional Public Prosecutor pointed out that the 1st accused was implicated only through



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the confession statement of this petitioner and he was not secured from the place of occurrence and that points were considered by this Court in Crl.A. (MD)No.1059 of 2023 and the case had ended in acquittal. According to him, the petitioner was secured from the place of occurrence along with the contraband of 25 kgs. of ganja. He further opposed that apart from this case, the petitioner is also having three previous cases to his credit, out of which, one case is pertaining to the offence under NDPS Act.

4. This Court considered the rival submissions made.

5. The petitioner is the 2nd accused and he was tried along with the 1st accused. They were found guilty for the offence under Section 8(c) r/w. 20(b) (ii)(C) of the NDPS Act and convicted and sentenced by the trial Court as stated supra. The appeal filed by the 1st accused in Crl.A.(MD)No.1059 of 2023 was allowed by this Court, by its Judgment dated 26.11.2024, by acquitting the accused from the charges.

6. The learned Senior Counsel for the petitioner has raised certain points that the mandatory provision under Section 50(1) of NDPS Act has not been



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complied with. However, the petitioner has filed this appeal only in the year 2025. There are several criminal appeals pending from the year 2020. This appeal is of the year 2025 and it cannot be taken up for final hearing immediately. Admittedly, the petitioner is in jail from 18.05.2021 and he has already undergone half of the sentence period.

7. Since the appeal could not be taken up for final hearing immediately and the co-accused has already been acquitted by this Court in Crl.A.(MD)No. 1059 of 2023, this Court is inclined to allow this petition. However, considering the objections raised by the learned Additional Public Prosecutor that the petitioner is having three previous cases, out of which, one is pertaining to the offence under NDPS Act, this Court is inclined to suspend the sentence with stringent conditions.

8. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioner is ordered to be enlarged on bail on the following conditions:

(i) The petitioner shall execute a bond for Rs.50,000/- (Rupees fifty thousand only) with two sureties each for a like sum to the satisfaction of the I



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Additional Special Court for NDPS Act Cases, Madurai.

(ii) the persons who are giving sureties should be Government Servants and the sureties shall file an affidavit before the respondent Police, by ensuring that the petitioner will not indulge in any other offence in future and he will be available till the disposal of the appeal proceedings.

(iii) The petitioner shall stay at Chennai and report before the Inspector of Police, Flower Bazaar Police Station, Chennai, daily at 10.30 a.m. until further orders.

23.03.2026

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To

1. The I Additional Special Court for NDPS Act Cases,
Madurai.
2. The Superintendent,
Central Prison, Madurai.



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3. The Inspector of Police,
Keeraithurai Police Station,
Madurai District.
4. The Inspector of Police,
Flower Bazaar Police Station,
Chennai,
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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