



CrIMP(MD)No.5324 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**CrIMP(MD)No.5324 of 2026
in
CrIA(MD)No.519 of 2024**

Naveenkumar

...Petitioner

Vs

The State of Tamil Nadu Represented by,
the Inspector of Police,
Cumbam North PS.,
Theni District.
[Crime No.638 of 2021]

... Respondent

PRAYER: Petition filed under Section 430 of BNSS, to suspend the sentence imposed by the I Additional Special Court for NDPS Act Cases, Madurai district in CC.No.66 of 2022 dated 11.08.2023 and enlarge the appellant on bail pending disposal of the above said criminal appeal.

For Petitioner : Mr.Subash.B

For Respondent : Mr.T.Senthil Kumar,

Additional Public Prosecutor



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ORDER

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The petitioner is accused No.3 in CC.No.66 of 2020 on the file of the I Additional Special Judge for NDPS Act Cases, Madurai. He was tried along with two other accused. By judgment dated 11.08.2023 the petitioner was found guilty, convicted for the offence under Sections 8(c) r/w 20(b)(ii)(B) and 29(1) of the NDPS Act and sentenced to undergo 10 years rigorous imprisonment with a fine of Rs.1,00,000/- in default to undergo 12 months simple imprisonment. As against the conviction and sentence imposed by the trial Court, this petitioner has filed an appeal before this Court in Crl.A(MD) No.519 of 2024 and the same has been admitted by this Court. The earlier two applications filed by the petitioner to suspend the sentence have already been rejected considering the huge quantity of contraband involved in this case. This is the third application filed to suspend the sentence.



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2.The learned counsel for the petitioner by referring to the recent judgment of this court in CrlA(MD)Nos.212 of 2020, etc., dated 15.10.2025 submits that the quantity involved in this case is 21kg and this court by considering the manner in which the contraband is measured by the police, has observed as under:

“23.14.8.In all these cases there is some ambiguity whether the seized ganja was weighed excluding the weight of the bag, stalk, stem, luxuriant leaves or only flowering or fruiting tops of the cannabis plant. Even in the report there is no whisper about the presence of the Tetrahydrocannabinol as chief intoxicating ingredient. Therefore, considering the overall circumstances and also taking into account that the appellants are confined in prison without bail from the date of arrest, during the trial and pendency of these appeals, this court holds that conviction cannot be recorded on ambiguity about the exact weight of the drug containing parts of the hemsps as defined under the definition of ganja in these border cases namely cases covered between 21 kg to 25 kg.”



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3.He further submits that the petitioner is having valid grounds in the appeal and though the earlier petitions were dismissed by this court, the appeal could not be taken up for final hearing. The petitioner is in jail for the past 4.6 years. In view of the above judgment, the petitioner is entitled for modification of sentence.

4.The learned Additional Public Prosecutor raised objections that these grounds were not raised before the trial court and the petitioner has not denied the recovery. Therefore, it is not a fit case for suspending the sentence. He further submits that the petitioner is not having any previous case.

5.The petitioner has raised certain arguable points in this petition, which can be considered only during the final hearing of the appeal. However the appeal could not be taken up for final hearing for want of time. The petitioner has already undergone nearly half of the sentence. Considering the period of sentence



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imposed, the period of incarceration already undergone and for the reason that the appeal could not be taken up immediately, this Court is inclined to allow this petition.

6. Accordingly this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended pending disposal of the criminal appeal on the following conditions:

(i) The petitioner is ordered to be enlarged on bail on executing a bond for Rs.1,00,000/- (Rupees One Lakh) with two sureties each for a like sum, I Additional Special Court for NDPS Act Cases, Madurai and one of the sureties must be a respectable person in the locality.

(ii) The petitioner and the sureties shall file an affidavit before the respondent police that the petitioner will not misuse this liberty and will not indulge in any further offence.



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(iii) The petitioner shall report before the respondent police daily at 10.30 am.

(iv) If the petitioner violates any of the conditions, the respondent police shall move an application to cancel the order of suspension of sentence of imprisonment.

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Index : Yes / No

DSK

To

- 1.The Inspector of Police,
Cumbam North PS.,
Theni District.
- 2.Additional District Judge,
I Additional Special Court for NDPS Act Cases,
Madurai.
- 3.The Superintendent,
Central Prison,
Madurai.

Copy to

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI.J.,

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