



Crl.MP(MD) No.4742 of 2025 in
Crl.A(MD) No.1025 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :18.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.MP(MD) No.4742 of 2025
in
Crl.A(MD) No.1028 of 2024

Stephen Pushparaj

... Petitioner

Vs

The State of Tamilnadu,
Rep. by the Inspector of Police,
Thoothukudi NIB CID,
Thoothukudi District.
Crime No.85/2016

... Respondent

Prayer :- This Criminal Miscellaneous Petition is filed under Section 430(1) of BNSS, 2023 to suspend the sentence imposed on the petitioner in CC No.16 of 2018, on the file of the learned Additional District Judge, Principal Special Court for EC & NDPS Act cases, Madurai and enlarge him on bail.

For Petitioner : Mr.R.Ilayaraja
For Respondent : Mr.A.S.Abul Kalaam Azad
Government Advocate (Crl.side)



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ORDER

The petitioner is A3 in CC No.16 of 2018 before the Additional District Judge, Principal Special Court for EC & NDPS Act cases, Madurai. He was tried along with the other accused that they were found in possession of 500 gms of ketamine. The trial Court has found the petitioner guilty, convicted and sentenced as under:-

Sl.No	Sections	Punishment	Fine amount	Default
1.	8(c) r/w 22(c) 25, 29(1) of NDPS Act	10 years Rigorous imprisonment	Rs.1,00,000/-	Six months simple imprisonment

As against the conviction and sentence imposed by the trial Court in CC No.16 of 2018, dated 04.10.2024, the petitioner has filed a Criminal Appeal in Crl.A(MD) No.1028 of 2024 and the same was admitted by this Court, by order, dated 27.11.2024. The petitioner has moved this petition to suspend the sentence imposed on him.



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2.The case of the prosecution is that the petitioner was found in possession of 500 gms of ketamine on 09.11.2016 along with the other accused. The respondent police has recovered 2 kgs of ketamine from A1 to A4, each having 500 gms. The fifth accused was arrested as if he has escorted the Car, in which, the contraband was transported.

3.The learned counsel appearing for the petitioner submits that this is the first application filed by this petitioner for suspension of sentence. A5 and A6 in this case were already granted with suspension of sentence. The allegation as against this petitioner is that he was found in possession of 500 gms of ketamine in a Car. The learned counsel by referring to Ex.P3, through which, the recovery has been projected as against this petitioner submits that the recovery was made in front of Vishaka Lodge, Balavinayaga Kovil street, Tuticorin on 09.11.2016 at about 12.45 p.m to 1.40 p.m., The Athatchi was prepared in the presence of Village Administrative Officer and the



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Village Assistant as if the contraband of 500 gms of ketamine was recovered from one Ramakrishnan/A1. The Athatchi was also signed by A1. However, the name of the first accused was struck off and the name of this petitioner, Stephen Pushparaj was inserted and the record has been created as if the contraband was recovered from this petitioner. He also referred to Ex.P.5, Athatchi of A6, recorded from the place of occurrence and submits that the recovery was made around 1.45 pm, however, the Car bearing No.TN 50 S 2953 was said to be recovered from the place of occurrence on 09.01.2016 at about 3.20 pm. Moreover, the First Information Report in Crime No. 85 of 2016, along with the offence were found in Athatchi itself, even though as per the prosecution case, the First Information Report was registered only in the police station on 09.11.2016, at about 7.30 pm. This would create a doubt with regard to the manner, in which, the recovery was made on 09.11.2016 from the petitioner. The learned counsel further submits that the petitioner is not having any previous case and he is in jail for a period of 714 days.



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4.The learned Government Advocate(Crl.side) appearing for the respondent has opposed for grant of suspension of sentence to the petitioner, on the ground that the petitioner was arrested along with the contraband of 500 gms of ketamine.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The petitioner, who is A3 was arrested along with 500 gms of ketamine. The co-accused (A5 & A6) in this case were already enlarged on bail. The petitioner has taken a specific plea that this petitioner has been added as accused through Mahazar, which was prepared for recovery of contraband from A1/Ramakrishnan. Admittedly, the name of the A1 was struck off and this petitioner's name was added as accused. That apart this petitioner has raised certain other arguable points that the Crime No.85 of 2016 was found



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in Athatchi, which was prepared from the place of occurrence at about 1.45 pm , however FIR was registered only in the police station on 09.11.2016, at about 7.30 pm.

7.The petitioner has raised certain arguable points, which can be considered only during the final hearing of the criminal appeal. However the appeal could not be taken up immediately, for want of time. In view of the above and considering the period of incarceration, this Court is inclined to suspend the sentence imposed on the petitioner. However, considering the serious objections raised by the learned Government Advocate(Crl.side), this Court imposes certain stringent conditions on the petitioner.

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:-



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- i. The petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh) with two sureties each for a like sum to the satisfaction of the learned Additional District Judge, Principal Special Court for EC & NDPS Act cases, Madurai and the sureties must be Government servants.
- ii. The persons, who are offering surety to the petitioner must file an affidavit of undertaking before the respondent police, ensuring that the petitioner will not involve in any offence in future and he will be available during the final hearing of the appeal. The petitioner shall also file an affidavit to that effect.
- iii. The petitioner shall appear before the respondent police daily at 10.30 a.m, until further orders.



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iv. If the petitioner violates any of the above conditions, it is open to the respondent police to file an application to cancel the bail granted to him.

18.03.2026

Index : Yes/No
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Note: Issue order copy on **25.03.2026**.

To

1. The Additional District Judge, Principal Special Court for EC & NDPS Act cases, Madurai
2. The Inspector of Police,
Thoothukudi NIB CID,
Thoothukudi District.
3. The Superintendent,
Central Prison,
Palayamkottai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.,

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Order made in
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in
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18.03.2026