



*CRL MP(MD)No.8434 of 2026
in CRL A(MD)No.462 of 2026*

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05.06.2026

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THE HONOURABLE MR. JUSTICE B.PUGALENDHI

CRL MP(MD)No.8434 of 2026
in
CRL A(MD)No.462 of 2026

Suresh

... Petitioner

Vs

State of Tamilnadu through
The Inspector of Police,
Kadamalaikundu Police Station,
Theni District.
Cr. No. 571 of 2018.

... Respondent

This petition filed under Section 430(1) of BNSS 2023, praying this Court to suspend the sentence imposed on the petitioner/appellant in C.C. No. 322 of 2019 dated 22.08.2025 on the file of the District and Sessions Court for Communal Clash Cases, Madurai and enlarge him on bail pending disposal of the main appeal.

For Petitioner : Mr.J.Thomas Rajadurai

For Respondent : Mrs.V.Moushica,
Counsel for State of Tamil Nadu (Crl. Side)



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ORDER

The petitioner is the 2nd accused in C.C.No.322 of 2019 on the file of the District and Sessions Court for Communal Clash Cases, Madurai. He was tried along with the 1st accused for the offence under Section 8(c) r/w. Section 20(b)(ii)(B), 27(A) of NDPS Act that they were found in possession of 8 kgs. of ganja. After the trial, the trial Court, by its Judgment dated 22.08.2025, found the accused persons guilty for the offence under Section 8(c) r/w. Section 20(b)(ii)(B) of NDPS Act and convicted and sentenced them to undergo rigorous imprisonment for a period of 10 years each and to pay a fine of Rs.1,00,000/- each, in default, to undergo simple imprisonment for a period of 3 years each. Challenging the Judgment of conviction and sentence, the petitioner has filed the criminal appeal in CrI.A.(MD)No.462 of 2026 and the same has been admitted by this Court on 21.04.2026. Along with the criminal appeal, the petitioner has moved this petition seeking to suspend the sentence imposed by the trial Court.



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2. The learned counsel appearing for the petitioner submits that in this case, the mandatory provisions under Section 42(1) of NDPS Act has not been complied with. The defacto complainant, a Forest Guard, on secret information, has conducted a search and recovered 8 kgs. of ganja from a private vehicle bearing Reg.No.TN60X 3115. According to him, the petitioner is not the owner of the vehicle. Further, the contraband was seized on 11.10.2018, but, it has reached the Court only on 01.11.2018 and there is a violation of Section 52 of NDPS Act. He further submits that the petitioner is in jail for nearly nine months. Therefore, he seeks to suspend the sentence imposed on the petitioner.

3. The learned counsel for State of Tamil Nadu (Crl. Side) submits that in this case, the recovery was made in usual verification in a forest check post and not on secret information. Therefore, according to him, Section 43 of NDPS Act would apply and Section 42 would not apply and as such, there is no mandatory violation under NDPS Act. He further submits that apart from this case, the petitioner is also having one previous case relating to IPC offence. However, he seeks time to ascertain the reasons for the delay in sending the samples to the Court.



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5. This Court considered the rival submissions made.

6. The petitioner was arrested along with the contraband of 8 kgs. of ganja, an intermittent quantity. The petitioner is in jail for nearly nine months. The petitioner has raised certain arguable points, however, the same can be considered only during the final hearing of the criminal appeal and the criminal appeal could not be taken up for final hearing immediately for want of time.

7. Considering the points raised by the petitioner and the period of incarceration, this Court is inclined to suspend the sentence with certain conditions. 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.1,00,000/- (Rupees one lakh only) with two sureties each for a like sum to the satisfaction of the District and Sessions Court for Communal Clash Cases, Madurai.



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(ii) The petitioner and the sureties shall submit a copy of their Aadhaar Card or any other identity card issued by the Government in proof of their residence address, before the trial Court as well as before the respondent Police. In the event, if there is any change of address, the same shall be intimated to the respondent Police without fail.

(iii) The petitioner shall not misuse the liberty granted to him by indulging in any further offence.

(iv) The petitioner shall report before the trial Court daily at 10.30 a.m. until further orders.

(v) 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.

05.06.2026

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To

1. The District and Sessions Court for
Communal Clash Cases,
Madurai.
2. The Superintendent,
Central Prison,
Madurai.
3. The Inspector of Police,
Kadamalaikundu Police Station,
Theni District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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