



Crl.M.P.(MD)Nos.7552 and 17063 of 2025

in Crl.A.(MD)Nos.665 and 1211 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)Nos.7552 and 17063 of 2025

in Crl.A.(MD)Nos.665 and 1211 of 2025

Faizal

Starwin

... Petitioner in

Crl.M.P.(MD)No.7552/2025

... Petitioner in

Crl.M.P.(MD)No.17063/2025

versus

State of Tamilnadu rep. by
The Inspector of Police,
NIB-CID,
Theni District.

... Respondent in
both petitions

Petitions filed under Section 430(1) of BNSS 2023, to suspend the sentence imposed by the II Additional Special Court for NDPS Act Cases, Madurai District, in C.C.No.173 of 2021 dated 25.03.2024 and enlarge the petitioners on bail pending disposal of the above appeals.



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For Petitioner in
Crl.M.P.(MD)No.7552/25 : Mr.SMA.Jinnah
For Petitioner in
Crl.M.P.(MD)No.17063/25 : Mr.P.M.Basil

For Respondent : Mr.T.Senthil Kumar,
in both petitions Additional Public Prosecutor

COMMON ORDER

The petitioners are accused Nos.2 and 3 in C.C.No.173 of 2021. They were tried along with the 1st accused that they were found in possession of 80 kgs. of ganja. They were arrested on 21.09.2020 and prosecuted for the offence under Section 8(c) r/w. 20(b)(ii)(C) of the NDPS Act before the II Additional Special Court for NDPS Act Cases, Madurai. After the trial, the trial Court, by its Judgment dated 25.03.2024, 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 two years each. Challenging the Judgment of conviction and sentence, the petitioners have filed criminal appeals before this Court in Crl.A. (MD)Nos.665 and 1211 of 2025 and the same were admitted by this Court on



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30.07.2025 and 14.11.2025. Along with the appeal, the petitioners have filed these petitions seeking to suspend the sentence imposed by the trial Court.

2. The learned counsel appearing for the petitioners submitted that the prosecution has not produced any material to establish that the petitioners had knowledge that the contraband was kept under the grape box. In the absence of any proof, it cannot be presumed that they are in possession of the contraband. The seizure mahazar does not contain the signature of the petitioners. Further, the samples, which have been drawn on the spot, have not been produced before the Magistrate, which creates serious doubt on the prosecution. The learned counsel further submitted that the petitioners are languishing in jail for five years and three months. The learned counsel further submitted that the 1st accused has already been enlarged on bail by this Court, by suspending the sentence imposed by the trial Court, by order dated 21.11.2025 in Crl.M.P. (MD)No.8719 of 2024 in Crl.A.(MD)No.694 of 2024.

3. The learned Additional Public Prosecutor opposed that the petitioners are hailing from Kerala and if they are released on bail, they would not be available for final hearing. He further submits that the 2nd accused is having one



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previous case to his credit. However, he fairly submits that the 1st accused has been enlarged on bail by this Court, by order dated 21.11.2025 in Crl.M.P. (MD)No.8719 of 2024 in Crl.A.(MD)No.694 of 2024.

4. This Court considered the rival submissions made.

5. The petitioners are accused Nos.2 and 3 and they were 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 as stated above. However, the 1st accused has been enlarged on bail by this Court, by order dated 21.11.2025 in Crl.M.P.(MD)No.8719 of 2024.

6. The petitioners have raised certain points that can be considered only during the final hearing of appeals. There are several criminal appeals pending from the year 2020. These appeals are of the year 2025 and that cannot be taken up for final hearing immediately. Admittedly, the petitioners are in jail for five years and three months and they have already undergone half of the sentence period. Since the appeal could not be taken up for final hearing immediately and the co-accused has already been enlarged on bail by this Court in Crl.M.P.



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(MD)No.8719 of 2024, this Court is inclined to suspend the sentence.

7. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeals and the petitioners are ordered to be enlarged on bail on the following conditions:

(i) The petitioners shall execute a bond for Rs.50,000/- (Rupees fifty thousand only) each with two sureties each for a like sum to the satisfaction of the II 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 petitioners will not indulge in any other offence in future and they will be available till the disposal of the appeal proceedings.

(iii) The petitioners shall report before the respondent Police daily at 10.30 a.m. until further orders.

23.03.2026

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1. The II Additional Special Court for NDPS Act Cases,
Madurai.
2. The Superintendent,
Central Prison, Madurai.
3. The Inspector of Police,
NIB-CID,
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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