



Crl.MP(MD) No.7414 of 2025 in
Crl.A(MD) No.733 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.7414 of 2025
in
Crl.A(MD) No.733 of 2024

T.Arun Thulasi

... Petitioner

Vs

The State of Tamilnadu,
Rep. by the Inspector of Police,
Vadasery Police Station,
Kanyakumari District.
Crime No.118 of 2022.

... 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.14 of 2023, on the file of the learned I Additional Special Court for NDPS Act cases, Madurai and enlarge him on bail, pending disposal of the criminal Appeal No.733 of 2024.



WEB COPY



Crl.MP(MD) No.7414 of 2025 in
Crl.A(MD) No.733 of 2024

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

ORDER

The petitioner is a native of Kerala. He was arrested on 16.04.2022 along with other accused, in Omni bus stand, Vadaseri by the Inspector of Police, Vadaseri Police Station, Kanyakumari District, along with 54 gms of Methamphetamine. The petitioner along with the other accused was tried before the I Additional Special Court for NDPS Act cases, Madurai and 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) and 29(1) of NDPS Act	10 years Rigorous imprisonment	Rs.1,00,000/-	1 year simple imprisonment

As against the conviction and sentence imposed by the trial Court in CC No.14 of 2023, dated 06.08.2024, the petitioner has filed a Criminal Appeal in Crl.A(MD) No.733 of 2024 and the same was admitted by this Court, by order, dated 09.09.2024. Along with the



Crl.MP(MD) No.7414 of 2025 in
Crl.A(MD) No.733 of 2024

appeal, the petitioner has also moved an application to suspend the sentence imposed on him by the trial Court in Crl.MP(MD) No.9418 of 2024 and the same was dismissed as withdrawn on 21.03.2025. This is the second application filed by the petitioner, seeking suspension of sentence.

2.The learned counsel appearing for the petitioner has raised the following grounds for grant of suspension of sentence.

- i. The alleged contraband has been seized from A1 and through his confession statement alone, this petitioner has been arrested from Kerala and not at the place of occurrence as projected by the investigation agency. It was established by the accused by examining themselves as defence witnesses.
- ii. They have also marked Ex.D1 and D2, the informations, which were obtained under the RTI Act as to the details of the General Diary extract of Poojappura Police Station,



Crl.MP(MD) No.7414 of 2025 in
Crl.A(MD) No.733 of 2024

Thiruvananthapuram. Ex.D1 creates a doubt as to the arrest of the petitioner on 16.04.2022 at Vadaseri Omni bus stand.

iii. The prosecution has failed to comply with the mandatory provisions under Sections 42(1) and 42(2) of the NDPS Act, thereby vitiating the entire investigation.

iv. The petitioner is a native of Kerala and do not know Tamil.

The alleged search consent letters Ex.P3 and Ex.P4 were written in Tamil. Crucially, the prosecution has failed to examine the official translator. In the absence of his tetimony, there is no legal evidence to prove that the mandatory requirements of Section 50 were explained to the petitioner in a language, which he can understand, thereby, the prosecution has violated the petitioner's fundamental rights.

v. The prosecution has not followed the mandatory provision



Crl.MP(MD) No.7414 of 2025 in
Crl.A(MD) No.733 of 2024

WEB COPY

under section 50(1) of NDPS Act.

vi. The prosecution claims to have effected the recovery of the alleged contraband and prepared the seizure Mahazar at the spot at about 9.00 a.m., However, the said Mahazar curiously contains the crime number of the case. It is pertinent to note that the First Information Report was registered only at 9.30 am. It is highly improbable and legally questionable as to how the Crime Number could have been mentioned in the Mahazar prior to the registration of the First Information Report.

vii. The prosecution case itself clearly indicates that the entire alleged contraband was recovered only from A1. However, a careful perusal of the Seizure Mahazar marked as Ex.P.7 reveals that the name and signature of A2 are not found in the said Mahazar.



Crl.MP(MD) No.7414 of 2025 in
Crl.A(MD) No.733 of 2024

WEB COPY

viii. As per the prosecution case, the alleged recovery of the contraband was made on 16.04.2022, however, the said contraband was produced before the trial Court only on 19.04.2022, resulting in an unexplained delay of three days. Moreover, the prosecution has not offered any satisfactory explanation for this delay. Although the samples were received by the trial Court on 19.04.2022, the same was forwarded and produced before the Forensic Laboratory only on 01.12.2022, which is a delay of more than eight months.

ix. No previous case is registered as against this petitioner.

3. The learned Government Advocate (Crl.side) appearing for the respondent submits that the petitioner is a resident of Kerala and in the event, if he is released on bail, he may not be available for the appeal. He further submits that the contraband involved in this case is 54 gms of Methamphetamine, which is a commercial quantity. The



Crl.MP(MD) No.7414 of 2025 in
Crl.A(MD) No.733 of 2024

WEB COPY

document obtained under the RTI Act, from a different police station, one day prior to the incident cannot be used to invalidate the arrest and recovery made on 16.04.2022 at Vadaseri Omni bus stand. The learned Government Advocate further submits that no previous case is pending as against this petitioner.

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

5.The petitioner is said to be arrested on 16.04.2022 in the Omni Bus stand, Vadaseri limits. The petitioner and other accused were examined as defence witnesses during the trial. On the side of the defence, an information/Diary Extract obtained under the RTI Act, by the petitioner's wife from the Inspector of Police, Poojappura Police Station,Thiruvananthapuram creates a doubt, in the manner, in which, the petitioner was arrested on 16.04.2022 at Vadaseri Omni bus stand. Ex.D1 is extracted as under:-

General Diary



Crl.MP(MD) No.7414 of 2025 in
Crl.A(MD) No.733 of 2024

WEB COPY

Office Type Police Station	Office Name Poojappura Police Station	
G.D.No. 20-15/04/2022	Date of Time 15/04/2022, 1235	G.D.Type Others
Subject Others		
Today Tamilnadu SP Special Team SI of Police Mahesh Varadaraj, Mob.7558113041 (Poothapandy P.S) requested permission to go to near Mudavanmugal temple is hereby recorded.		
G.D.entry done by R.Roj-1(Inspector)		

The above grounds coupled with other grounds raised by this petitioner can be appreciated 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 and also taking into consideration of the fact that no previous case is pending as against this petitioner, this Court is inclined to suspend the sentence imposed on the petitioner. However, considering the serious objections raised by the learned Government Advocate that this petitioner is a native of Kerala and if he is released on bail, he may not be available for the appeal, this Court imposes certain stringent conditions on the petitioner.



WEB COPY



Crl.MP(MD) No.7414 of 2025 in
Crl.A(MD) No.733 of 2024

6. 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 a sum of Rs.1,00,000/- (Rupees One Lakh) with two sureties each for a like sum to the satisfaction of the I Additional Special Court for 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.



Crl.MP(MD) No.7414 of 2025 in
Crl.A(MD) No.733 of 2024

WEB COPY

iii. The petitioner shall appear before the respondent police daily at 10.30 a.m, for a period of 30 days and thereafter shall report before the trial Court on the first working day of every English Calender month at 10.30 a.m.,

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
Internet : Yes/No
vrn



Crl.MP(MD) No.7414 of 2025 in
Crl.A(MD) No.733 of 2024

WEB COPY

To

- 1.The I Additional Special Court for NDPS Act cases, Madurai.
- 2.The Inspector of Police,
Vadasery Police Station,
Kanyakumari District.
- 3.The Superintendent,
Central Prison,
Palayamkottai.



WEB COPY



Crl.MP(MD) No.7414 of 2025 in
Crl.A(MD) No.733 of 2024

B.PUGALENDHI, J.,

vrn

Order made in
Crl.MP(MD) No.7414 of 2025
in
Crl.A(MD) No.733 of 2024

18.03.2026