



Crl.M.P.(MD)Nos.7562 and 15505 of 2025

in Crl.A.(MD)Nos.420 of 2024 and 1147 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2026

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THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)Nos.7562 and 15505 of 2025

in Crl.A.(MD)Nos.420 of 2024 and 1147 of 2025

R.Gawtham

P.Ramu

... Petitioner in

Crl.M.P.(MD)No.7562/2025

... Petitioner in

Crl.M.P.(MD)No.15505/2025

versus

State of Tamil Nadu rep. by
The Inspector of Police,
NIB-CID,
Dindigul District.

... Respondent in
both petitions.

Petitions filed under Section 430(1) of BNSS 2023, to suspend the sentence imposed in C.C.No.26 of 2023 on the file of the II Additional Special Court for EC and NDPS Act Cases, Madurai, by Judgment dated 25.04.2024 and enlarge the petitioners on bail.

For Petitioner
in both petitions : Mr.N.Manimaran



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

COMMON ORDER

The petitioners are accused Nos.2 and 1 in C.C.No.26 of 2023 on the file of the II Additional Special Court for EC and NDPS Act Cases, Madurai. The 1st accused is the father of the 2nd accused. They were tried for the offence under Section 8(c) r/w. 20(b)(ii)(C) of NDPS Act that they were found in possession of 20.500 kgs. of ganja. After the trial, the trial Court, by its Judgment dated 25.04.2024, found the petitioners guilty and convicted and sentenced them to undergo rigorous imprisonment for ten 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 2nd accused filed an appeal before this Court in CrI.A.(MD)No.420 of 2024 and the same was admitted by this Court, by order dated 08.05.2024. Earlier, the 2nd accused has filed two petitions in CrI.M.P.(MD)No.5235 of 2024 and 1979 of 2025 seeking to suspend the sentence and the same were dismissed by this Court by order dated 18.10.2024 and 18.02.2025. Now, the 2nd accused has moved this 3rd petition that he is in jail for more than 2 ½ years. Challenging



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the Judgment of conviction and sentence, the 1st accused has also filed an appeal before this Court in Crl.A.(MD)No.1147 of 2025 and the same was admitted by this Court on 28.10.2025. Along with the appeal, the 1st accused has filed this petition seeking to suspend the sentence.

2. The learned counsel appearing for the petitioners submits that the mandatory provision of Section 52(A) of NDPS Act was not followed by the investigating officer for drawing the samples. Further, the occurrence was said to have taken place in the bus stop, but, no independent witnesses were examined. The prosecution has taken the sample at about 12.15 p.m., but, the FIR has been registered at about 23.15 hrs., i.e. before 7 hrs. Therefore, the petitioners are having certain arguable points in the appeals. Since the 1st accused is languishing in jail for more than 3 ½ years and the 2nd accused is languishing in jail for more than 2 ½ years, he seeks to suspend the sentence imposed by the trial Court.

3. The learned Additional Public Prosecutor opposed that the 1st accused is having two previous cases of similar in nature and both the cases ended in conviction in STC Nos.8148 of 2015 and 9959 of 2016 and he has also paid the



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fine amount imposed by the trial Court.

4. This Court considered the rival submissions made.

5. The petitioners have raised certain arguable points in the appeals. Even though the earlier applications filed by the second accused were dismissed, the appeals could not be taken up for final hearing for want of time. Considering the period of incarceration and also considering the fact that the appeals could not be taken up for final hearing immediately for want of time, this Court is inclined to suspend the sentence.

6. 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 1st accused 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 II Additional Special Court for NDPS Act Cases, Madurai. Out of two sureties, one surety must be a Government servant.

(ii) The 2nd accused shall execute a bond for Rs.1,00,000/- (Rupees one



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lakh only) with two sureties each for a like sum to the satisfaction of the II Additional Special Court for NDPS Act Cases, Madurai. The sureties should be respectable persons in their locality, either Government Servants or elected people representatives or the persons who are having permanent business establishments.

(iii) The sureties shall also file an affidavit before the concerned Police Station, by ensuring that the accused persons will not indulge in any other offence in future and they will be available till the disposal of the appeal proceedings.

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

24.03.2026

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To

1. The II Additional Special Court for NDPS Act Cases,
Madurai.

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2. The Superintendent,
Central Prison, Madurai.

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3. The Inspector of Police,
NIB-CID,
Dindigul District.

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

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