



CrIMP(MD)No.8464 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**CrIMP(MD)No.8464 of 2025
in
CrIA(MD)No.262 of 2025**

Mathan

...Petitioner

Vs

**The State of Tamil Nadu represented by
the Inspector of Police,
Subramaniapuram Police Station,
Madurai City.
[Crime No.529 of 2019]**

... Respondent

PRAYER: Petition filed under Section 430 of Bharatiya Nagarik Suraksha Sanhita, to suspend the sentence passed by the I Additional Special Court for NDPS Act Cases, Madurai in CC.No.256 of 2021 dated 27.01.2025 enlarge the petitioner / accused on bail pending disposal of the above criminal appeal.

For Petitioner : Mr.N.Mohideen Basha

**For Respondent : Mr.AS.Abul Kalaam Azad,
Government Advocate**



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ORDER

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The petitioner is accused No.1 in CC.No.265 of 2021 on the file of the I Additional Special Court for NDPS Act Cases, Madurai. He was charged that he and two others were found in possession of 24 kgs of ganja in a car bearing registration No.TN58 BB 9474 near Kovalan Pottal Bridge, TVS Nagar, Madurai. The prosecution has been laid as against all the three accused. Pending trial, accused No.3 died and in conclusion of the trial accused No.2 has been acquitted. By judgment dated 27.01.2025, this petitioner was found guilty, convicted for the offence under Section 8(c) r/w Section 20(b)(ii)(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to undergo 10 years rigorous imprisonment with a fine of Rs.1,00,000/- in default to undergo 2 years simple imprisonment. As against the conviction and sentence imposed by the trial Court, this petitioner has filed an appeal before this Court in Crl.A(MD)No.8464 of 2025 and the same has been admitted by this Court on 28.02.2025. The petitioner is in jail for one year and four months.



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2.The learned counsel for the petitioner submits that the case of the prosecution is totally different from the confession statement of this petitioner, which is marked Ex.P3. The copies of the information and the report under Section 54 of the NDPS Act, marked before the Court in Ex.P4 and Ex.P7 are different from the copies served to the petitioner in Ex.D3 and Ex.D4 and PW2 had also admitted the same. He further submits that the case of the prosecution is that the alleged offending vehicle was purchased out of sale of ganja, but it is purchased by the petitioner's wife by obtaining loan. The petitioner's wife is working as a Principal in a college and she has also been examined as DW.1

3.The learned counsel further submits that LW1 to LW5 and LW7 were shown in the final report, but they were not examined by the prosecution and there is no reason assigned for the same. Further PW4 the Investigating Officer has openly admitted that there is difference in Ex.P.2, Ex.P6 and Ex.P8 with regard to the time of the incident and in order to fill up this lacuna, the letter Ex.P13 was marked. As per the prosecution case FIR was sent to the court on 13.10.2019, whereas it is received by the court only on 14.10.2019. Therefore, the very case of the prosecution is doubtful.



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4.He further submits that the entire records were prepared at the scene of crime in the laptop, it was copied in a pen drive and print outs were taken in a browsing centre, however, no pen drive was marked and no person from the said browsing centre was examined. Further PW2 had admitted in the cross examination that the entire case was not prepared in the scene of crime, but in the police station. Further the CCTV footages showing that the petitioner was not arrested at scene of occurrence, instead he was picked from his apartment. The learned counsel has also relied on the orders of this court in CrIOP(MD)No.18555 of 2019 dated 20.12.2019. He further submits that he is not having any other cases.

5.The learned Government Advocate submits that the petitioner was arrested along with 24 kgs of ganja in a car bearing registration No. TN58 BB 9474, which belongs to the petitioner's wife. Though the petitioner claims that he was arrested from his residence in an apartment, no CCTV footage has been produced and the petitioner has not examined anyone to substantiate the same.

6.This court has considered the rival submissions made.



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7.The petitioner has raised certain doubts with regard to the manner in which the petitioner was arrested, as projected by the prosecution. The case of the petitioner is that the petitioner was arrested from his residence and as pointed by the learned Government Advocate the petitioner has not placed the CCTV footage before the trial court. However, when the petitioner was in jail during the trial, in the application filed by him before this court, this court has called for the CCTV footage, but found that the CCTV footage was erased. In the absence of the CCTV footage, it cannot be decided as to whether the petitioner has been arrested from his residence or not. The petitioner has raised certain arguable points in this petition, which can be considered only during the final hearing of the appeal. Considering the period of sentence imposed, the period of incarceration already undergone and for the reason that the appeal could not be taken up immediately, this Court is inclined to allow this petition, however with stringent conditions.



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8. Accordingly this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended pending disposal of the criminal appeal on the following conditions:

(i) The petitioner is ordered to be enlarged on bail on executing 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 respectable persons in the locality.

(ii) The petitioner and the sureties shall file an affidavit before the respondent police that the petitioner will not misuse this liberty and will not indulge in any further offence.

(iii) The petitioner shall stay at Virudhunagar and report before the Inspector of Police, Virudhunagar East Police Station daily at 10.30 am.

(iv) If the petitioner violates any of the conditions, the respondent police shall move an application to cancel the order of suspension of sentence of imprisonment.

30.03.2026

DSK



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To

1. I Additional Special Court for NDPS Act Cases,
Madurai.

2. The Inspector of Police,
Virudhunagar East Police Station,
Madurai City.

Copy to

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

2. The Inspector of Police,
Virudhunagar East Police Station,
Virudhunagar.



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B.PUGALENDHI.J.,

DSK

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