



Crl.MP(MD) No.8926 of 2025 in
Crl.A(MD) No.749 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :25.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.MP(MD) No.8926 of 2025
in
Crl.A(MD) No.749 of 2025

Markandan

... Petitioner

Vs

The State of Tamilnadu,
The Intelligence Officer,
Narcotic Control Bureau,
Madurai Zone,
Madurai.

NCB F.No.48/1/04/2018/NCB-MDU

... 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.333 of 2018, dated 03.03.2025 by the I Additional Special Court for EC and NDPS Act cases, Madurai and enlarge him on bail, pending disposal of the criminal Appeal.

For Petitioner : Mr.M.Jegadeesh Pandian
For Respondent : Mr.C.Arul Vadivel @ Sekar
Special Public Prosecutor



WEB COPY



Crl.MP(MD) No.8926 of 2025 in
Crl.A(MD) No.749 of 2025

ORDER

The petitioner, who is arrayed as A3 in CC No.333 of 2018, on the file of the I Additional Special Court for EC and NDPS Act cases, Madurai was tried along with the other accused that A1 and A2 were found in possession of 240.45 kg of ganja in a Car bearing Registration No.TN 21 C4667 at Chittampatti Toll Plaza, Madurai to Trichy National Highway and this petitioner has permitted his vehicle to be used for illegal transportation of ganja and he also worked as a financier to source such huge quantity of ganja. 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 20(b) (ii) (C) and 29 of NDPS Act	10 years Rigorous imprisonment	Rs.1,00,000/-	2 years simple imprisonment

As against the conviction and sentence imposed by the trial Court in CC No.333 of 2018, dated 03.03.2025, the petitioner has filed a Criminal Appeal in Crl.A(MD) No.749 of 2025 and the same was admitted by this Court, by order, dated 15.07.2025. Along with the



Crl.MP(MD) No.8926 of 2025 in
Crl.A(MD) No.749 of 2025

appeal, the petitioner has also moved this application to suspend the sentence imposed on him by the trial Court.

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

- i. This petitioner has been arrested after the arrest of A1 and A2, based on their confession statement and not from the occurrence place.
- ii. Though the prosecution claims that original RC Book of the offending Car, which was marked as Ex.P.48 was recovered from this petitioner's house, the ownership of the vehicle was not proved.
- iii. Even as per the evidence of the Investigating Officer/PW 5, the vehicle belongs to one Senthil Kumar, who sold the same to one Damodharan and he in-turn sold to another person at Usilampatti. However, the investigating officer has not examined the said Senthil Kumar and Damodharan.



Crl.MP(MD) No.8926 of 2025 in
Crl.A(MD) No.749 of 2025

WEB COPY

- iv. With respect to the search made in the petitioner's house, the owner of the house has not been examined to prove the search and seizure.
- v. Based on the confession statement of the co-accused, the prosecution claimed that mobile No.97878 59090 was used by this petitioner, however, it was not recovered from the petitioner.
- vi. Ex.P.79 and Ex.P.86, CDR documents relied upon by the prosecution to prove the call details between the accused persons is pertaining to A1 and A2 alone.
- vii. Money transaction among the accused persons, connecting this petitioner has not been proved by the prosecution.

3. The learned Special Public Prosecutor appearing for the respondent has opposed for grant of suspension of sentence to this petitioner on the following grounds:-



Crl.MP(MD) No.8926 of 2025 in
Crl.A(MD) No.749 of 2025

WEB COPY

- i. The accused persons A1 to A3 conspired together to transport 240.45 kg of ganja from Tuni, Andhra Pradesh in a Car bearing Registration No.TN 21 C4667 and on secret information, the vehicle was intercepted and the contraband was recovered.
- ii. The specific overt act as against this petitioner is that he has sourced and financed the consignment and also permitted his vehicle to be used for illegal transportation of ganja.
- iii. The petitioner's mobile number 97878 59090 had frequent contact with A1 and A2, specifically on 14.04.2018 and 16.04.2018. The contraband was seized on 17.04.2018.
- iv. The petitioner has not denied the ownership/usage of the above mentioned mobile number. Tower location of the petitioner's mobile phone was at Andhra Pradesh at that relevant point of time.
- v. Original RC Book was recovered from this petitioner's house.
- vi. The co-accused have confessed that the offending vehicle was



Crl.MP(MD) No.8926 of 2025 in
Crl.A(MD) No.749 of 2025

WEB COPY

handed over to them by this petitioner at Andhra Pradesh.

vii. Though RC Book is not in the name of the petitioner, he is in possession /custody of the vehicle at that relevant point of time.

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

5. The only material as against this petitioner is that the location of the petitioner's mobile phone was found at Andhra Pradesh at that relevant point of time, however, the respondent police has not recovered his mobile phone to substantiate the case of the prosecution. As per the prosecution case, the Car, which has been used for transportation of the contraband belongs to this petitioner. However, RC Book, which was marked as Ex.P.48 stands in the name of one Senthilkumar. He sold the Car to one Dhamodharan and in turn, he sold the same to another person at Usilampatti. However, the



Crl.MP(MD) No.8926 of 2025 in
Crl.A(MD) No.749 of 2025

WEB COPY

prosecution neither examined Senthil Kumar nor Damodaran to substantiate that the Car has been handed over by these persons to the petitioner and under what circumstances it was done so. The recovery of RC book from this petitioner's house is also doubtful as the house owner of this petitioner was not examined by the prosecution, to prove the search and seizure conducted in the petitioner's house. This petitioner is languishing in jail from 04.10.2023.

6.The petitioner has raised certain arguable points, which can be considered 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, this Court is inclined to suspend the sentence imposed on the petitioner. However, considering the serious objections raised by the learned Special Public Prosecutor, this Court imposes certain stringent conditions on the petitioner.



Crl.MP(MD) No.8926 of 2025 in
Crl.A(MD) No.749 of 2025

WEB COPY

7. 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 EC and 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.8926 of 2025 in
Crl.A(MD) No.749 of 2025

WEB COPY

iii. The petitioner shall report before the respondent police daily at 10.30 a.m, until further orders.

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.

25.03.2026

Index : Yes/No
Internet : Yes/No
vrn

To

1. The I Additional Special Court for NDPS Act cases, Madurai.
2. The Intelligence Officer,
Narcotic Control Bureau,
Madurai Zone,
Madurai.
3. The Superintendent,
Central Prison,
Madurai.



WEB COPY



Crl.MP(MD) No.8926 of 2025 in
Crl.A(MD) No.749 of 2025

B.PUGALENDHI, J.,

vrn

Order made in
Crl.MP(MD) No.8926 of 2025
in
Crl.A(MD) No.749 of 2025

25.03.2026