



Crl.MP(MD) No.8950 of 2025 in
Crl.A(MD) No.382 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :18.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.MP(MD) No.8950 of 2025
in
Crl.A(MD) No.382 of 2025

K.Sivan

... Petitioner

Vs

The State of Tamilnadu,
Rep. by the Inspector of Police,
Cumbum North Police Station,
Theni District.
Crime No.424 of 2023

... 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.121 of 2024, 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.382 of 2025.



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

ORDER

The petitioner/A2 in CC No.121 of 2024, on the file of the I Additional Special Court for NDPS Act cases, Madurai was tried along with the other accused that they were found in possession of 22 kgs 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(1) of NDPS Act	10 years Rigorous imprisonment	Rs.1,00,000/-	2 years imprisonment

As against the conviction and sentence imposed by the trial Court in CC No.121 of 2024, dated 09.12.2024, the petitioner has filed a Criminal Appeal in Crl.A(MD) No.382 of 2025 and the same was admitted by this Court, by order, dated 25.03.2025. Along with the



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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 submits that though the prosecution has projected the case that 22 kgs of ganja was recovered from this petitioner, it was not substantiated by examining the Mahazar witnesses, namely, the Village Administrative Officer and the Village Assistant. According to the learned counsel, the respondent police have registered the case that this petitioner along with A1 was found with two plastic gunny bags in a suspicious manner and on verification, it was found that it is ganja. The occurrence is said to have taken place near Nagakanniamman Kovil, on Cumbum to Kombai Road on 13.12.2023 at about 10.30 hours is surrounded by shops and houses. However, no independent witness was examined by the prosecution to support the recovery from this petitioner. One Nagarajan, the Village Administrative Officer was cited as a witness, however, he was not examined before the trial



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Court. He further submits that the alleged recovery was made on 13.12.2023, however, the contraband was produced before the trial Court only on 19.12.2023. Therefore, according to him, the contraband said to have been recovered on 13.12.2023 was produced before the trial Court with a delay of five days. He also pointed out that there was a delay in producing the samples before the Forensic Laboratory. The learned counsel by referring to the evidence of PW 1, Grade I Police Constable states that according to PW 1, the contraband was not with the petitioner and it was recovered near the place of occurrence, where the petitioner was standing. The learned counsel prays this Court to grant suspension of sentence to this petitioner as the petitioner is in jail for more than two years.

3.The learned Government Advocate appearing for the respondent has opposed for grant of suspension of sentence to the petitioner, on the ground that 22 kgs of contraband/ a commercial quantity was recovered from this petitioner. Therefore, as per the



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provision under Section 37 of NDPS Act, this petitioner cannot be considered for suspension of sentence.

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

5.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 Government Advocate, this Court imposes certain stringent conditions on the petitioner.

6. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the



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



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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

To

1. The I Additional Special Court for NDPS Act cases, Madurai.
2. The Inspector of Police,
Cumbum North Police Station,
Theni District.
3. The Superintendent,
Central Prison,
Madurai.



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B.PUGALENDHI, J.,

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