



Crl.M.P.(MD)No.11430 of 2023

in Crl.A.(MD)No.705 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.04.2026**

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.11430 of 2023

in Crl.A.(MD)No.705 of 2023

S.Thirumalai

... Petitioner

versus

State, rep. by
The Inspector of Police,
Subramaniapuram Police Station,
Madurai District.

... Respondent

Petition filed under Section 389(1) Cr.P.C., to suspend the sentence of imprisonment imposed by the learned Additional District Judge (FAC), I Additional Special Court for NDPS Act Cases, Madurai, in C.C.No.388/2021 dated 12.05.2023 and enlarge the petitioner/appellant on bail pending disposal of the above said criminal appeal.

For Petitioner : Mr.K.S.Durai Pandian

For Respondent : Mr.A.S.Abul Kalaam Azad,
Government Advocate (Crl. Side)



WEB COPY



Crl.M.P.(MD)No.11430 of 2023

in Crl.A.(MD)No.705 of 2023

ORDER

The petitioner is the accused No.3 in C.C.No.388 of 2021 on the file of the I Additional Special Court for NDPS Act Cases, Madurai. He was tried along with other accused for the offence under Section 8(c) r/w. 20(b)(ii)(C), 25, 29(1) of NDPS Act and 25(1)(B)(b) of Arms Act that the accused persons were found in possession of 40 kgs. of ganja along with knives and aruval. After the trial, the trial Court, by its Judgment dated 12.05.2023, found the accused persons guilty for the offence under Section 8(c) r/w. 20(b)(ii)(C) of NDPS Act and Section 25(1-B)(b) of Arms Act, convicted and sentenced them as under:

Sl.No	Sections	Punishment	Fine amount	Default
1.	8(c) r/w. 20(b)(ii)(C) of NDPS Act	10 years rigorous imprisonment each	Rs.1,00,000/- each	12 months simple imprisonment each
2.	25(1-B)(b) of Arms Act	One year imprisonment each	Rs.5,000/-	-

Challenging the Judgment of conviction and sentence, the petitioner has filed a separate appeal before this Court in Crl.A.(MD)No.705 of 2023 and the same was admitted by this Court on 09.08.2023. Along with this appeal, the petitioner



Crl.M.P.(MD)No.11430 of 2023

in Crl.A.(MD)No.705 of 2023

has moved this petition seeking to suspend the sentence.

2. The learned counsel appearing for the petitioner submits that in this case, the prosecution has not followed the mandatory procedure as required under Section 42(1) and 42(2) of NDPS Act for preparation of information and there was a delay in filing the same. He further submits that no independent witness was examined and there was a delay in producing the contraband before the Special Court. Since the petitioner is in jail from the date of his arrest and he has also completed half of the sentence period, he seeks to grant bail to the petitioner.

3. The learned Government Advocate (Crl. Side) opposed this petition stating that apart from this case, the petitioner is also involved in another case in Crime No.517 of 2019 on the file of E3 Anna Nagar Police Station for the offence under Sections 147, 148, 294(b), 353, 307 IPC and Section 25(1)(A) of Arms Act and Section 5 of IES Act.

4. This Court considered the rival submissions made.



Crl.M.P.(MD)No.11430 of 2023

in Crl.A.(MD)No.705 of 2023

WEB COPY

5. Though the learned Government Advocate (Crl. Side) opposed to grant bail that apart from this case, the petitioner is also involved in another case in Crime No.517 of 2019 for the offence under Sections 147, 148, 294(b), 353, 307 IPC and Section 25(1)(A) of Arms Act and Section 5 of IES Act, the petitioner is not having any other bad antecedent under NDPS Act. The petitioner has raised certain arguable points, however, the same can be considered during the final hearing of the appeal and the appeal could not be taken up for final hearing immediately. The petitioner is in jail from the date of arrest and he has also undergone half of the sentence period.

6. Considering the period of incarceration and also considering the fact that the appeal could not be taken up for final hearing immediately, this Court is inclined to suspend the sentence with conditions.

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 Rs.1,00,000/- (Rupees one lakh only) with two sureties each for a like sum to the satisfaction of the Principal



Crl.M.P.(MD)No.11430 of 2023

in Crl.A.(MD)No.705 of 2023

Special Court for NDPS Act Cases, Madurai.

(ii) Out of the two sureties, one surety must be a Government Servant. The sureties shall file an affidavit before the respondent Police, by ensuring that the petitioner will not indulge in any other offence in future and he will be available during the appeal proceedings.

(iii) The petitioner and the sureties shall submit a copy of their Aadhaar Card or any other identity card issued by the Government in proof of their residence address, before the trial Court as well as before the respondent Police. In the event, if there is any change of address, the same shall be intimated to the respondent Police without fail.

(iv) The petitioner shall not misuse the liberty granted to him by indulging in any further offence.

(v) The petitioner shall appear before the respondent Police daily at 10.30 a.m. until further orders and also file an affidavit that he will not indulge in any other offence in future and he will be available during the appeal



Crl.M.P.(MD)No.11430 of 2023

in Crl.A.(MD)No.705 of 2023

proceedings.

(vi) 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.

09.04.2026

ogy

To

1. The Principal Special Court for NDPS Act Cases,
Madurai.
2. The Superintendent,
Central Prison, Madurai.
3. The Inspector of Police,
Subramaniapuram Police Station,
Madurai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

6/7



WEB COPY



Crl.M.P.(MD)No.11430 of 2023

in Crl.A.(MD)No.705 of 2023

B.PUGALENDHI, J.

ogy

Crl.M.P.(MD)No.11430 of 2023

in Crl.A.(MD)No.705 of 2023

09.04.2026