



CRL MP(MD) NO. 11405 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20-01-2026

CORAM

THE HONOURABLE MRS JUSTICE N. MALA

CRL MP(MD) NO. 11405 of 2025

in

CRL.A(MD)No.906 of 2025

1. Ajay Kannan

S/o.Krishan

AP039

Manapatti

Kilathari

Tamarakki

Sivagangai District. (Now Confined in Madurai Central Prison)

Petitioner(s)

Vs

1. The State of Tamil Nadu

Rep by The Inspector of Police

Dindigul West Town Police Station

Dindigul District.

Crime No.568/2022.

Respondent(s)

For Petitioner(s):

M/s. Sakthivel.S

Sujeeth G

Subash B

Thameem Nainar



For Respondent(s):Mr..B.Nambi Selvan
Addl. Public Prosecutor

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Prayer:Criminal Miscellaneous Petition filed to suspend the sentence imposed by the Learned I Additional Special Court for NDPS Act Cases, Madurai District in C.C.No.645/2023, dated 15.04.2025 and enlarge the Petitioner on bail, pending disposal of the above said Criminal Appeal.

ORDER

This Petition is filed to suspend the sentence imposed by the learned Ist Additional Special Court for NDPS Act Cases, Madurai District in C.C.No.645/2023, dated 15.04.2025 and enlarge the Petitioner on bail, pending disposal of the above said Criminal Appeal.

2.The Petitioner is the sixth accused in the case. The case of the prosecution is that on 31.12.2022 at about 17.00 hours, upon receipt of secret information, the Sub-Inspector of Police attached to the respondent-Police Station, went near the house of the second accused at Maruthanikulam Village, where six persons had gathered there along with Yamaha Fascino and TN 63 BP 2401 and on seeing the police party they tried to escape, but five persons were caught by the respondent



Police and the first accused escaped from the scene of occurrence. 21

Kgs of Ganja valued at Rs.3,15,000/- was seized by the Police and a case was registered in Crime No.568 of 2022 for the offence under Section 8(c) r/w 20(b)(ii)(C) and 25 of NDPS Act, 1985.

3.On the side of the prosecution, 10 witnesses were examined as P.W.1 to P.W.10 and 39 exhibits were marked as Ex.P1 to Ex.P39 along with M.O.1 to M.O.8. The accused did not adduce any evidence both oral and documentary.

4.The trial Court, on completion of trial, convicted the Petitioner under Section 29(1) r/w 20(b)(ii)(C) of NDPS Act and sentenced him to rigorous imprisonment for 10 years along with a fine of Rs.1,00,000/- (Rupees one lakh only), in default, to undergo simple imprisonment for 2 years. Aggrieved by the said conviction, the petitioner filed the above said Criminal Appeal along with the application for suspension of sentence.

5.The learned counsel for the Petitioner submitted that the Petitioner had no role to play in the offence and that the Petitioner was



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falsely implicated in this case. The learned counsel further submitted that there was no recovery of contraband from the Petitioner but the trial Court had erroneously concluded that the Petitioner was guilty on since the contra-band weighing 21 Kgs of Ganja and a sum of Rs. 10,000/- was recovered from the Petitioner. The learned counsel further submitted that there are various contradictions and inconsistencies in the evidence of the prosecution and therefore, the judgment of the trial Court cannot be sustained.

6.The learned Additional Public Prosecutor, appearing for the respondent submitted that the trial Court had on the basis of evidence on record given cogent and justifiable reasons for finding the Petitioner guilty and sentencing him as aforesaid. The learned Additional Public Prosecutor, therefore, prayed for dismissal of the Petition for suspension of sentence. In support of his submission the learned Additional Public Prosecutor appearing for the respondent relied on the decision in the case of ***Om Prakash Sahini .vs. Jai Shankar Chaudhary and another reported in (2023) 6 SCC 123.***

7. I have heard the submissions of the learned counsel appearing



on either side and perused the materials placed on record.

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8.The categorical findings of the trial Court disclose that the accused was found guilty of the offence and that there was an attempt to tamper with the witness namely, P.W.7, who was a material witness in establishing the involvement of the accused in the offence. The contentions urged by the learned counsel for the Petitioner, before this Court in support of the application for suspension of sentence, raise issues which necessarily fall for consideration at the stage of final disposal of the Criminal Appeal. At this juncture, the Petitioner has failed to make out prima facie case warranting suspension of sentence. On a consideration of the record, this Court finds no error apparent in the order for granting suspension of sentence. I am fortified in my view by the judgment of the Honourable Supreme Court in ***Om Prakash Sahini .v. Jain Shankar Chaudhary and another reported in (2023) 6 SCC123***. The Honourable Supreme Court held as follows:

“33. Bearing in mind the aforesaid principles of law, the endeavour on the part of the Court, therefore, should be to see as to whether the case presented by the prosecution and accepted by the Trial



Court can be said to be a case in which, ultimately the convict stands for fair chances of acquittal. If the answer to the above said question is to be in the affirmative, as a necessary corollary, we shall have to say that, if ultimately the convict appears to be entitled to have an acquittal at the hands of this Court, he should not be kept behind the bars for a pretty long time till the conclusion of the appeal, which usually take very long for decision and disposal. However, while undertaking the exercise to ascertain whether the convict has fair chances of acquittal, what is to be looked into is something palpable. To put it in other words, something which is very apparent or gross on the face of the record, on the basis of which, the Court can arrive at a prima facie satisfaction that the conviction may not be sustainable. The Appellate Court should not reappreciate the evidence at the stage of Section 389 of the CrPC and try to pick up few lacunas or loopholes here or there in the case of the prosecution. Such would not be a correct approach.”

In view of the aforesaid circumstance, this Court is not inclined to entertain the present petition for suspension of sentence and the same is liable to be dismissed.

9.This Criminal Miscellaneous Petition is accordingly dismissed.

20-01-2026



To

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1.The Ist Additional District Judge,
Ist Additional Special Court for NDPS Act Cases,
Madurai.

2.The Inspector of Police,
Dindigul West Town Police Station,
Dindigul District.
(Crime No.568 of 2022).

Copy to

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



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N.MALA.,J

vsn

ORDER MADE IN
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in
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