



Crl.MP(MD) Nos.15344 & 18206 of 2023 in
Crl.A(MD) Nos.967 & 709 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :30.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.MP(MD) Nos.15344 & 18206 of 2023

in

Crl.A(MD) Nos.967 & 709 of 2023

G.Naveenkumar

... Petitioner in
Crl.MP(MD) No.15344/2023

E.Mottheesh

... Petitioner in
Crl.MP(MD) No.18206/2023

Vs

The State of Tamilnadu,
Rep. by the Inspector of Police,
NIB – CID,
Theni District.
Crime No.26 of 2021.

... Respondent

Common Prayer :- These Criminal Miscellaneous Petitions are filed under Section 430 of BNSS, 2023 to suspend the sentence imposed on the petitioners in CC No.385 of 2021, dated 27.06.2023, on the file of the learned Judge, I Additional District and Sessions Judge for EC & NDPS Act cases, Madurai and enlarge them on bail.



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For Petitioners : Mr.NA.Manimaran
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor
(In both Crl.MPs)

COMMON ORDER

The petitioners are accused Nos.1 and 2 in C.C.No.385 of 2021, on the file of the I Additional Special Court for NDPS Act Cases, Madurai. They were tried along with the other accused that they have illegally transported 16 kg of ganja in a two wheeler. The trial Court, by its Judgment dated 27.06.2023, found the petitioners guilty, convicted and sentenced them to undergo 10 years rigorous imprisonment and to pay a fine of Rs.1,00,000/-, in default, to undergo one year simple imprisonment. Challenging the Judgment of conviction and sentence, the petitioners have filed criminal appeals in Crl.A.(MD)Nos.967 and 709 of 2023 respectively and the same were admitted on 02.11.2023 & 09.08.2023 respectively. The petitioners have also filed these petitions seeking suspension of sentence.



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

- i. Though the alleged contraband was recovered by the respondent police on 19.01.2021, it was produced before the Court only on 09.02.2021, after a delay of 20 days.
- ii. No independent witness was examined on the side of the prosecution.
- iii. There was a contradiction in the statement of PW 1 with regard to the recording of information about the alleged transportation of the contraband.
- iv. The mandatory provision under Section 52A of the NDPS Act has not been complied with by the prosecution.
- v. Both the petitioners are languishing in jail for more than 5 years.

3. The learned Additional Public Prosecutor appearing for the respondent objects for grant of suspension of sentence to these



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petitioners on the ground that apart from the present case, the petitioners have also involved in two other cases, out of which, one case is similar in nature. In the event, if they are released on bail, they may indulge in further offence. Therefore, he prays for dismissal of this petition.

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

5.The petitioners have raised certain arguable points, which can be considered only during the final hearing of the criminal appeals. However the appeals 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 petitioners. However, considering the serious objections raised by the learned Additional Public Prosecutor, this Court imposes certain stringent conditions on the petitioners.



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6. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioners are ordered to be enlarged on bail on the following conditions:-

- i. The petitioners shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh) each with two sureties each for a like sum to the satisfaction of the learned Judge, I Additional Special Court for NDPS Act cases, Madurai, out of which, one surety must be a Government servant.
- ii. The persons, who are offering surety to the petitioners must file an affidavit of undertaking before the respondent police, ensuring that the petitioners will not involve in any offence in future and they will be available during the final hearing of the appeal. The petitioners shall also file an affidavit to that effect.



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

iv. If the petitioners violate any of the above conditions, it is open to the respondent police to file an application to cancel the bail granted to them.

30.03.2026

Index : Yes/No
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To

1. I Additional Special Court for NDPS Act cases, Madurai
2. The Inspector of Police,
NIB – CID,
Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Superintendent,
Central Prison,
Madurai.



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B.PUGALENDHI, J.,

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Common Order made in
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