



Crl.M.P.(MD)No.5753 of 2026

in Crl.A.(MD)No.332 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **29.04.2026**

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THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.5753 of 2026

in Crl.A.(MD)No.332 of 2026

Ratheesh

... Petitioner/A3

versus

State of Tamil Nadu,
Rep. by the Inspector of Police,
NIB CID, Theni District
in Cr.No.26 of 2021.

... Respondent

Petition filed under Section 430(1) of BNSS to suspend the sentence imposed by the I Additional Special Court for NDPS Act Cases, Madurai, in C.C.No.385 of 2021 dated 27.06.2023 and enlarge the petitioner/accused No.3 on bail, till the disposal of the criminal appeal.

For Petitioner : Mr.S.Maya Perumal

For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor



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ORDER

The petitioner is the accused No.3 in C.C.No.385 of 2021 on the file of the I Additional Special Court for NDPS Act Cases, Madurai. He was tried along with three other accused for the offence under Section 8(c) r/w. 20(b)(ii) (C), 25 of NDPS Act that they have illegally transported 16 kgs. of ganja in a two wheeler. After the trial, the trial Court, by its Judgment dated 27.06.2023, acquitted the 4th accused from all the charges and found accused Nos.1 to 3 guilty for the offence under Section 8(c) r/w. 20(b)(ii)(C) of NDPS Act and convicted and sentenced them to undergo rigorous imprisonment for 10 years each and to pay a sum of Rs.1,00,000/- each, in default, to undergo simple imprisonment for one year each. Challenging the Judgment of conviction and sentence, the petitioner has filed a separate appeal before this Court in Crl.A. (MD)No.332 of 2026 and the same has been admitted by this Court on 16.03.2026. Along with this appeal, the petitioner has moved this petition seeking to suspend the sentence.

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



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- (i) The respondent Police has not followed the mandatory provision of Sections 42(2) and 50(1) of NDPS Act.
- (ii) Ex.P8-report under Section 57 is not reliable.
- (iii) Non-examination of material witness who prepared recovery mahazar is fatal to the prosecution case.
- (iv) Joint recovery mahazar is wholly not reliable
- (v) Non-examination of independent witness is fatal to the prosecution case.
- (vi) MO1 and MO2 itself create doubt about mode of recovery.
- (vii) The petitioner is not having any previous case and he is in jail for more than five years.
- (viii) The co-accused, namely, A1 and A2 have been enlarged on bail by suspending the sentence, by this Court, in Crl.M.P.(MD)Nos.15344 and 18206 of 2023 in Crl.A.(MD)Nos.967 and 709 of 2023, by common order dated 30.03.2026.

3. Heard the learned Additional Public Prosecutor appearing for the respondent Police.



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4. 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 for want of time. Further, the petitioner is in jail for more than 5 years and the co-accused, namely, 1st and 2nd accused, have been enlarged on bail by suspending the sentence by this Court, in Crl.M.P.(MD)Nos.15344 and 18206 of 2023, by common order dated 30.03.2026.

5. In view of the above and also considering the period of incarceration, this Court is inclined to suspend the sentence with certain conditions. 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 I Additional Special Court for NDPS Act Cases, Madurai, out of which, one surety must be a Government servant.

(ii) 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



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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 before the respondent Police that he will not indulge in any other offence in future and he will be available during the appeal 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.

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To

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



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B.PUGALENDHI, J.

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