



CRL MP(MD) NO. 18620 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. 18620 of 2025

in

CRL.A(MD)No.485 of 2025

1. Manikandan
S/o. Sankareswaran
Opposite to Pallivasal
Thoppu Street
Muthiyapuram
Thoothukudi
Thoothukudi District.

Petitioner(s)

Vs

1. The State of Tamil Nadu,
Rep. by The Inspector of Police,
N.I.B C.I.D. Thoothukudi,
Thoothukudi District.
(Crime No. 85 of 2016)

Respondent(s)

For Petitioner(s):

Mr.Ramasamy S
P. Venkatesan
M.Ramakrishnan
Kannan G
B.Karthick Durai Pandian



For Respondent : Mr.B.Nambi Selvan
Addl.Public Prosecutor.

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Prayer: Criminal Miscellaneous Petition filed to enlarge the petitioner on bail by suspending the sentence imposed by the learned Principal special judge for EC and NDPS Act, Madurai, in C.C.No.16 of 2018 vide his judgement, dated 04.10.2024, pending disposal of the main Criminal Appeal.

ORDER

This Petition is filed to suspend the sentence imposed in the judgment made in C.C.No.16 of 2018, dated 4.10.2024, passed by the learned Principal Special Judge for EC and NDPS Act Cases, Madurai, pending disposal of the above said Criminal Appeal.

2.The brief facts of the case are as follows:

At about 10.00 a.m on 09.11.2016, on receiving secret information from the informer, P.W.,1 and P.W.2 went to Vishaha Lodge at Balavinayagar Kovil Street, Thoothukudi. There they found a car bearing Registration NO.TN 50 S 2963 and a two wheeler bearing Registration No.TN 69 1494 belonging to the Petitioner, and on search they found 500 grams of Ketamine each in the Petitioner's possession



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and as well as in the possession of A2 to A4, which they seized as per the procedure provided in the NDPS Act.. A case was registered for the offence under Sections 8(c) r/w 22(c), 25, 29(1) of the NDPS Act and thereafter trial in C.C.NO.16 of 2018 was conducted by the learned Principal Special Judge for EC and NDPS Act Cases, Madurai.

3.In the trial, on the side of the prosecution five witnesses were examined and 40 exhibits were marked along with M.Os 1 to 12. On the side of the defense, no evidence was adduced either oral or documentary. After trial, the trial Court acquitted A7 and A8 from all charges levelled against them. A1 and A3 to A6 were convicted under Section 8(c) r/w r/w 22(c), 25, 29(1) of the NDPS Act and sentenced to undergo rigorous imprisonment for 10 years(each), to pay a fine of Rs.1,00,000/-(Rupees one lakh only)each and in default, to undergo simple imprisonment for six months(each). As A2 died, the charges framed against him were declared abated.

4.The learned counsel for the Petitioner submitted that the evidence of P.W.1, the Village Administrative Officer, raised a doubt in the prosecution case regarding search, seizure and recovery, since P.W.1



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in her evidence deposed that she had no knowledge of the particulars stated in the Search Seizure Letter. The learned counsel further submitted that the Village Administrative Officer who was taken for the specific purpose of signing the Mahazar, categorically stated that she did not sign in the Mahazar and therefore, the prosecution failed in establishing that the contraband was seized and recovered from the Petitioner.

5.The learned Additional Public Prosecutor, appearing for the respondent/State, on the other hand, submitted that, Athatchi-ExP1 taken from the Petitioner at the scene of occurrence amply proved that the Petitioner was in conscious possession of the contraband and it was recovered from him. The learned Additional Public Prosecutor, submitted that the finding of the trial Court that the contraband was seized and recovered from the Petitioner on the face of Ex.P1 cannot be faulted. The learned Additional Public Prosecutor, further submitted that in the absence of any palpable error in the trial Court judgment, this Court cannot delve deep into the trial Court Judgment for the purpose of granting suspension of sentence and hence prayed for dismissal of the Petition.

6.Heard the learned counsel appearing on either side and perused



the materials placed before this Court.

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7.No doubt, P.W.1-Village Administrative Officer in her evidence stated that she had no knowledge of the particulars of the statement in the Search Seizure Letter. However, in her cross-examination, she denied all the suggestions put to her regarding any underlying motive against the accused/Petitioner.

8.The learned counsel for the Petitioner submitted that independent witnesses were not examined and no explanation was given for the non-examination of independent witnesses found at the scene of occurrence. The counsel further submitted that since P.W. 1(VAO) admitted in her evidence that she had no knowledge of the particulars in the search-seizure letter, it was incumbent on the prosecution to examine independent witnesses. In my view, the non examination of the independent witness is of no significance since as rightly pointed out by the learned Additional Public Prosecutor, in the Athatchi viz Ex.P1, the Petitioner voluntarily signed for recovery of contraband in his possession. Further even the trial Court while relying on Ex.P1, rightly found that the Petitioner did not protest or dispute his



signature in it. Therefore, it cannot be said that contra-band was not recovered from the Petitioner.

9. Moreover, at the stage of grant of suspension of sentence, this Court is not bound to examine in depth the evidence on record. This Court for the purpose of arriving at a prima facie satisfaction that the conviction may not be sustained is required to cursorily scan the evidence on record to find out the apparent or gross error in appreciation of the evidence by the trial Court. This Court cannot re-appreciate the evidence at this stage. I am fortified in my view by the judgment of the Honourable Supreme Court in ***Om Prakash Sahini .vs. Jai Shankar Chaudhary and another reported in (2023) 6 SCC 123.***

10. In view of the above discussions, this Court finds no merit in the Petition for grant of interim suspension of the sentence

11. This Criminal Miscellaneous Petition is accordingly dismissed.

20-01-2026



To
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1. The Additional District Judge,
Principal Special Court for EC and NDPS Act cases,
Madurai District.

2. The Inspector of Police,
N.I.B C.I.D. Thoothukudi
Thoothukudi District.
(Crime No. 85 of 2016)

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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