



Crl.M.P.(MD)No.2290 of 2026

in Crl.A.(MD)No.159 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.04.2026**

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THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.2290 of 2026

in Crl.A.(MD)No.159 of 2026

Suresh Kumar

... Petitioner

versus

State of Tamil Nadu, Rep. by
The Inspector of Police,
Cumbum North Police Station,
Theni District.

... Respondent

Petition filed under Section 430 of BNSS to suspend the sentence imposed on the petitioner by the I Additional Special Court for NDPS Act Cases, Madurai, passed in C.C.No.391 of 2021, by Judgment dated 20.02.2025 and enlarge the petitioner on bail pending disposal of the criminal appeal.

For Petitioner : Mr.A.Vignesh

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



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ORDER

The petitioner is the accused No.2 in C.C.No.391 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)(B) and 29(1) of NDPS Act that the 1st accused was found in possession of 8 kgs. of ganja and accused Nos.2 and 3 were accomplice to the 1st accused. After the trial, the trial Court, by its Judgment dated 20.02.2025, found the accused persons guilty, convicted and sentenced them to undergo 4 years rigorous imprisonment each and to pay a fine of Rs.25,000/- each, in default, to undergo 12 months simple imprisonment each. Challenging the Judgment of conviction and sentence, the petitioner has filed a separate appeal before this Court in Crl.A.(MD)No.159 of 2026 and the same has been admitted by this Court on 03.02.2026. Along with this appeal, the petitioner has moved this petition seeking to suspend the sentence.

2. The learned counsel appearing for the petitioner raised the following points for suspending the sentence:

(a) There was no recovery from the petitioner/A2 and the entire recovery



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of 8 kgs. of ganja was effected only from the 1st accused.

(b) The trial Court erred in mechanically invoking Section 29 of the NDPS Act without any evidence of conspiracy or nexus between the accused. There is no material such as call records, communication or independent witness to establish any meeting of minds or coordinated activity.

(c) The prosecution case is vitiated by serious procedural violations. The mandatory requirements under Sections 41 and 42 of the NDPS Act were not properly complied with, as the prosecution failed to establish proper recording and communication of prior information.

(d) The prosecution evidence suffers from material contradictions regarding the time of receipt of information, time of arrest and place of recovery, which creates serious doubt about the genuineness of the occurrence.

(e) The chain of custody of the seized contraband is not established, as there are discrepancies in sampling, sealing and forwarding procedures, thereby affecting the evidentiary value of the material objects.

(f) The alleged search and seizure are rendered doubtful as no independent witnesses were present and the entire process was conducted only in the presence of police officials, thereby affecting the credibility of the prosecution case.



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(g) The mahazar is unreliable as the witness admitted that he did not fully witness the seizure and no independent corroboration is available.

According to him, the petitioner is in jail for more than one year and two months. Therefore, he seeks to suspend the sentence imposed against the petitioner.

3. The learned Additional Public Prosecutor submits that the recovered contraband is of intermediate quantity. He further submits that the petitioner is not having any bad antecedent.

4. This Court considered the rival submissions made.

5. 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 one year and two months and he is not having any bad antecedent.



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6. Considering the points raised by the petitioner, his 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 certain 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 learned I Additional Special Judge for NDPS Act Cases, Madurai.

(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 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.



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

(v) The petitioner shall appear before the trial Court once in a month, i.e. on the first working day of every English Calender month at 10.30 a.m., till the disposal of the appeal and also file an affidavit 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.

15.04.2026

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To

1. The learned I Additional Special Judge for
NDPS Act cases,
Madurai.

2. The Superintendent,
Central Prison, Madurai.

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3. The Inspector of Police,
Cumbum North Police Station,
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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