

**Bail Slip**

The Appellant/Sole Accused namely Lookaas, aged 45 years, S/o. Joseph, was directed to be released on bail as per the order of this Court, dated 06.10.2009 in MP(MD).No.1 & 2/2009 in Crl.A.(MD). No.272/2009 on the file of this Court.

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 31.07.2019**

**CORAM:**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**CRL A (MD) No.272 of 2009**

Lookaas

... Appellant / Accused No.1

**Vs.**

State, by the Inspector of Police,  
NIB - CID, Theni District.  
(Crime No.141 of 2002)

... Respondent / Complainant

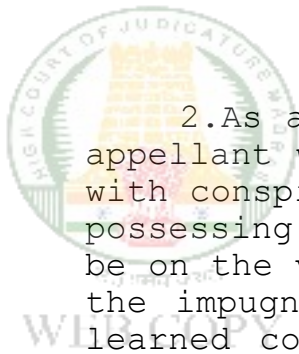
**Prayer :** This Criminal Appeal is filed under Section 374 of Criminal Procedure Code, against the judgment and conviction passed by the Special District and Sessions Judge for NDPS Act Cases, Madurai in C.C No.800 of 2003 dated 01.09.2009, convicting the appellant for the alleged offence under Section 8(c) r/w.20(b) (ii) (C) of NDPS Act and sentenced him to undergo ten years rigorous imprisonment and to pay a fine of Rs.1,00,000/- in default of payment of fine to undergo six months simple imprisonment.

For Appellant : Mr.M.Jegadeesh Pandian

For Respondent : Mr.A.Robinson  
Government Advocate (crl.side)

**JUDGMENT**

The appellant in this appeal was shown as the first accused in C.C No.800 of 2003 on the file of the learned Special District and Sessions Judge for NDPS Act cases, Madurai. In the said case, as many as five persons were prosecuted. The specific case of the prosecution is that while 15 kgs kanja each was recovered from A2 and A3, 10 kgs kanja each was recovered from A4 and A5. The appellant was only driving the vehicle from which the contraband was recovered. While filing the final report, the accused A2 to A4 were charged for possessing the contraband less than the commercial quantity. But, the appellant herein alone was charged with possessing commercial quantity of Ganja.



2. As already pointed out, even according to the prosecution the appellant was only a driver. The appellant could have been charged with conspiracy along with others. But, charging the appellant for possessing the contraband above the commercial quantity appears to be on the very face of it illegal. Therefore, I am of the view that the impugned judgment warrants interference to this extent. The learned counsel appearing for the appellant submitted that if the appellant is found guilty in respect of the offence under Section 29 of the NDPS Act, he would not have any grievance.

3. In this view of the matter, the conviction of the appellant is modified from Section 8(c) r/w. 20(b) (ii) (C) of NDPS Act under Section to one under Section 29 of the NDPS Act, 1985. Now, comes the question of sentence. A2 to A4 were sentenced to three years rigorous imprisonment by the trial court. This Court modified the same and reduced to the period already undergone by them. I am of the view that the very same benefit will have to be extended to the appellant herein also. The occurrence had taken place way back in the year 2002. For the last 17 years, the appellant had not come under any adverse notice. The appellant had spent 120 days in prison. Therefore, the sentence of imprisonment is reduced and modified to the period already undergone by him.

4. With this modification in the matter of sentence and conviction, this appeal is partly allowed.

Sd/-

Assistant Registrar (CO)

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/ /2020

Sub Assistant Registrar (CS)

Skm

To

1. The Special District and Sessions Judge for NDPS Act Cases,  
Madurai.

2. The Inspector of Police, NIB - CID, Theni District.

3. The Superintendent, Central Prison, Madurai.

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