

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 14141/2025

[Arising out of impugned final judgment and order dated 02-08-2023 in CRLA No. 863/2022 passed by the High Court of Judicature at Madras]

AYOULUWA DAVID ADEBAKIN & ANR.

Petitioner(s)

VERSUS

STATE

Respondent(s)

IA No. 79979/2025 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

Date : 19-03-2026 This matter was called for hearing today.

CORAM : HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
HON'BLE MR. JUSTICE R. MAHADEVAN

For Petitioner(s) :Mr. Anand Grover, Sr. Adv.
Ms. Tripti Tandon, Adv.
Mr. Satbir Singh Pillania, Adv.
Mr. Sandiv Kalia, Adv.
Mr. Dhananajay Kumar Tyagi, Adv.
Dr. Sushil Balwada, AOR

For Respondent(s) :Mr. Sabarish Subramanian, AOR
Mr. Vishnu Unnikrishnan, Adv.
Ms. Jahnvi Taneja, Adv.
Mr. Veshal Tyagi, Adv.
Ms. Arpitha Anna Mathew, Adv.
Mr. K.s.badhrinathan, Adv.

O R D E R

Heard Mr. Anand Grover, learned Senior Counsel for the petitioner and Mr. Sabarish Subramanian, learned counsel for the State of Tamil Nadu.

2. Leave granted.

3. The appellant has moved before this Court against the order

dated 02.08.2023 passed by the Madras High Court in Criminal Appeal No. 863 of 2022 against his conviction and sentence which has been dismissed.

4. The appellants are alleged to have been caught with 4 and 3 kgs respectively of *dry ganja*, and upon trial were convicted and sentenced to rigorous imprisonment u/s. 235(2) Cr.P.C. for 7 years each and to pay a fine of Rs.50,000/- (Rupees Fifty Thousand) each for the offence u/s. 8(c) r/w 20(b)(ii)(B) of the NDPS Act, and in default of payment of fine thereof to undergo further period of 6 months S.I. each and to undergo rigorous imprisonment for 7 years each and to pay a fine of Rs.50,000/-(Rupees Fifty Thousand) each for the offence u/s. 29(1) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the "NDPS Act"), and in default of payment of fine thereof to undergo further period of 6 months S.I. The above sentences imposed on the accused are ordered to run concurrently. The period of remand already undergone by the accused were ordered to be set off. The same has been upheld by the High Court.

5. Learned Senior Counsel for the appellant submitted that there has been infraction of the basic provisions of the NDPS Act especially relating to to the collection of samples and the authenticity and reliability of the said sample which was finally sent to the forensic laboratory inasmuch as the samples were taken on 19.11.2019 and sent to the Forensic Science Laboratory on 10.12.2019. It was submitted that it has not been explained as to where during the interregnum period, the sample was kept. This, according to him, raises a fundamental question with regard to the

reliability of the sample sent for forensic examination for the reason that it was an official sample collected in a case and which had to be accounted for each and every date, and there being no entry of the said sample either in the police station or any other storage place used by the prosecution, the said omission had to be explained and according to him, shall strike at the root of the prosecution case.

6. It was further contended that the appellants were not caught from the place where it has been shown in the FIR, and rather they were caught from their home which fact has also come in the deposition of various witnesses.

7. Learned Senior Counsel further contended that the Court may also take note of the fact that the quantity was more nearer to small quantity and much below the commercial quantity of 20 kgs. Learned counsel summed up his arguments by invoking the compassion of this Court to exercise its power under Article 142 of the Constitution of India by submitting that the appellants were students pursuing their academic courses and the circumstances under which they were caught were, at best, unfortunate. It was further contended that they have no criminal antecedents and the Court may convert their sentence into period undergone and for the purposes of ensuring that they do not commit any further crime, the Court may indicate that immediately upon release, they be sent back to their home country.

8. Learned counsel for the State addressed the Court on merits. However, we are not going into the same in view of the order the Court proposes to pass.

9. Accordingly, having considered the matter in its entirety and going through the material on record, we are persuaded to take a lenient and sympathetic view in the matter. The appellants aged 22 and 26 years respectively and having undergone almost four years of custody out of a total sentence of seven years, in the opinion of this Court, can be shown leniency and it would also serve the ends of justice, if the sentence is reduced to period already undergone, invoking our inherent power under Article 142 of the Constitution of India in the special facts and circumstances of the present case.

10. At this juncture, learned Senior Counsel submitted that this Court for doing complete justice may consider the fact that the appellants have been for all practical purposes forsaken by their families and they have no succor or support system in this country and the fine of Rs. 50,000/- imposed would be an impossibility and the entire compassion shown by this Court would be frustrated. It was further submitted that even with regard to the airfare, the appellants will have to explore various avenues including their friends and colleagues in India to pitch in with the amount for them to take a flight back to their country.

11. Having considered the plea we are persuaded to grant further indulgence. Accordingly, while upholding the conviction of the appellants, we modify the sentence to period already undergone till 08.04.2026. The fine amount shall also be adjusted in the period undergone.

12. The matter be listed at the top of the list on 08.04.2026 for learned Senior counsel to respond as to what modality has been

worked out to ensure that soon after their release, the appellants are sent back to their country.

(SACHIN KUMAR SRIVASTAVA)
COURT MASTER (SH)

(ANJALI PANWAR)
ASSISTANT REGISTRAR