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CRL MP No. 6224 of 2026 in CrI A No. 418 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15-06-2026

CORAM :

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL.MP No. 6224 of 2026

in

CRL.A.No. 418 OF 2026

1. Gayathri
W/o.Prabhakaran,
No.12, V.O.C.Street,
Madhavaram, Chennai-600060.
2. Kalaivani
W/o.Subramani,
No.12, V.O.C.Street,
Madhavaram,
Chennai-600 060.

..Petitioner(s)

Vs

State Rep.by,
The Inspector of Police,
K.K.Chathiram Police Station,
Tiruvallur.

..Respondent(s)

Petition filed under Section 430(1) of BNSS, 2023 to suspend the sentence imposed by the learned I Additional District and Session Judge at Tiruvallur on 20.02.2026 in SC.No.162 of 2021 and enlarge the petitioners on bail and pass such further or other orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and pending disposal of the main appeal.



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For Petitioner(s):

Mr.R.C.Paul Kanagaraj

For Respondent(s):

Mr.M.M.I.Khaleel
Government Advocate
(Criminal Side)

ORDER

(Order of the Court was made by Dr.Anita Sumanth, J.)

The petitioners/convicts/A1 and A2, are daughter and mother, and seek suspension of sentence dated 20.02.2026 passed by the I Additional District and Sessions Court, Tiruvallur in S.C.No. 162 of 2021, confirming the charges for offences under Sections 120(B), 449, 302 read with 34 IPC.

2. The background to the matter is this. One Sabapathy (deceased) was attacked on 07.05.2019 at about 3.00 a.m., when kerosene was poured on him and lit. He had given a statement before the Judicial Magistrate on 07.05.2019, that has been treated as dying declaration, wherein he implicates both A1 and A2, his daughter-in-law and her mother, for the murder. The statement has been signed by him and witnessed by his wife (PW2) and son (PW1).

3. The case of the prosecution, that the petitioners had committed the crime is premised substantially on the statement of the deceased. A1 had been estranged from her husband and his family for long. As the deceased had arranged for his son's second marriage, A1 and A2 had been enraged, quarrelled with the deceased, and ultimately conspired and executed his murder by pouring

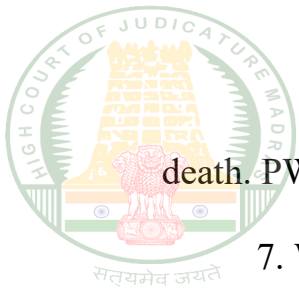


kerosene on him and setting him ablaze.

4. M.M.I.Khaleel, learned Government Advocate (Criminal Side), for the prosecution relies substantially on the dying declaration recorded from the deceased, wherein, he has made reference to both accused by name, stating that it was the accused who had poured kerosene on him and lit him up. He argues that a dying declaration must be treated as believable since they are utterances from a man enroute to meeting his maker, drawing from the maxim, '*nemo moriturus praesumitur mentire*', meaning '*a man will not meet his maker with a lie in his mouth*'.

5. Before the trial Court, the prosecution relied on the evidence of 12 witness, marking 31 exhibits (Ex P1 to Ex P31) and 8 material objects(M.O.1 to M.O.8). Defence did not either produce witnesses or mark any exhibits. On hearing the matter and by judgment dated 20.02.2026, the trial Court found both A1 and A2 guilty of the offences charged and sentenced them to undergo life imprisonment for the charges, to run concurrently along with fine.

6. Mr.Paul Kanagaraj, who appears for the petitioners would emphasize that there is no evidence whatsoever that has been produced by the prosecution to sustain the case as against the petitioners. There were material contradictions in the depositions of P1, son of the deceased, and P2, wife of the deceased, that were fatal to the case of the prosecution. That apart, there is no mention of the accused in the statements recorded from P1 and P2. In fact, P1 has ultimately turned hostile, disavowing all knowledge of the incident leading to his father's



death. PW2 has likewise, not incriminated the accused.

7. We have heard both learned counsel and perused the material papers.

8. The admitted fact is that on 07.05.2019, the deceased has been attacked, kerosene poured on him and he was lit ablaze. In his dying declaration before the Judicial Magistrate recorded on 07.05.2019, he has stated that it was the accused who had committed the aforesaid crimes. The accident register dated 07.05.2019 corroborates the fact that the deceased had died due to burns, recording the smell of kerosene, and burns on the body, face and genitalia of the deceased. There is thus no doubt that the deceased had suffered an unnatural death.

9. However, it is also a fact that there is no reference to the accused in either the (i) accident register where the Duty Doctor only states '*somebody set him on fire alive while sleeping and sustained burn injury*' or (ii) the statements of PW1 and PW2. To this extent, there is a variation between the contents of the dying declaration and the aforesaid three evidences.

10. In fact, PW1 states categorically that 'அவர் யாரை தீ வைத்து கொளுத்தினார்கள் என்று எனக்கு தெரியாது', and in the deposition of PW2, she says '.. என் கணவர் ஒருநாள் வீட்டில் இருந்தார். சம்பவம் 3 வருடத்திற்கு முன்பு நடந்தது. (சாட்சி மூச்சு வாங்கிக் கொண்டே சாட்சியம் அளிக்கிறார்). அதிகாலை நான் எழுந்தபோது என் கணவர் வெந்து போய் இருந்தார். எப்படி என் கணவருக்கு தீபிடித்தது என்று எனக்கு தெரியாது. அவருக்கு யார் தீவைத்தார் என்று எனக்கு தெரியாது. அப்போது அங்கு யாரும் இல்லை'....



11. Though some sanctity must be attached to a dying declaration, we are not inclined to rely on the statement in the dying declaration in isolation, without reference to other surrounding circumstances. We are hence of the considered view that, the balance of convenience would enure in favour of the petitioners and hence we allow this petition for suspension and grant bail, imposing the following conditions:-

- (i) Each of the petitioner shall execute a bond for a sum of Rs.25,000/-, each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned I Additional District and Sessions Judge, Tiruvallur.
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and
- (iii) The petitioners shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeals and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on



any other day in lieu of the date of their absence, as
directed by the trial Court.

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(A.S.M.,J.) (S.M.,J.)
15-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
ssm

Note to Registry : Issue Today.

To

- 1.The learned I Additional District and Session Judge at Tiruvallur
2. The Inspector of Police,
K.K.Chathiram Police Station, Tiruvallur.
3. The Superintendent, Woman Prison, Puzhal.
4. The Public Prosecutor, High Court, Madras.



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