



WEB COPY

CRL MP No. 7813 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-08-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL MP No. 7813 of 2026

IN

CRL A NO. 563 OF 2026

Suriyamoorthy @ Suriya
S/o. Moorthy,
No.161, Erikarai Street,
Melavatham Colony, Nemili Taluk.

..Petitioner(s)

Vs

State Rep. by Inspector of Police
Arakkonam Taluk Police Station,
Ranipet District.

..Respondent(s)

Petition filed under Section 430(1) of BNSS to suspend the sentence imposed upon the Petitioner/Appellant by the Learned II Additional District and Sessions Judge, Arakkonam, Ranipet District in Sessions Case No.37 of 2024 and enlarge the petitioner herein on bail pending disposal of the appeal and thus render justice.

For Petitioner(s):

Mr.G.Mohana Krishnan

For Respondent(s):

Mr.C.R.Malarvannan,
Counsel For Government Of Tamil Nadu
(Criminal Side)



ORDER

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

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A3 in Crime No.406 of 2019 had been convicted for offences under Sections 342 read with Section 34, 364 read with 34 and 302 read with 34 of IPC and sentenced to undergo imprisonment for life and fine and other imprisonments and fines by a judgment of the II Additional District and Sessions Judge, Arakkonam dated 13.10.2025.

2. We have heard Mr.G.Mohana Krishnan, learned counsel for the petitioner and Mr.C.R.Malarvannan, learned counsel for the Government of Tamil Nadu (Criminal Side) for the respondent.

3. The case of the prosecution is that one Jailabudeen (deceased) who was working as a coolie had been missing from 06.09.2019. Despite a search, the deceased was not found. The wife of the deceased received information from one Asim that her husband had been taken by the accused, based on which information, she had gone to the scene of occurrence as identified by the Asim/villager and found him lying prone tied with lungi and shirt and his face disfigured by virtue of being beaten with a stone.

4. On the basis of the complaint of the wife of the deceased, investigation was commenced and the authorities implicated four accused, wherein the petitioner is A3. The case of the prosecution rested on the testimony of 23 witnesses, 37 exhibits and 9 material objects and the trial Court found all four guilty and sentenced them as per paragraph 1 supra.



5. Learned counsel for the petitioner would submit that there is absolutely no evidence to incriminate A3, no testimony adverse to his interest and no circumstances, let alone a convincing and unbroken chain of circumstances pointing to the guilt of A3 has been established by the prosecution. He would thus pray that since A3 has been in custody since 13.10.2025, the sentence as against him must be suspended.

6. Having heard both learned counsel and perused the judgment of the learned Additional District and Sessions Judge, we are of the view that the sentence of A3 is liable to be suspended for the following reasons.

7. The case of the prosecution is that the four accused had jointly kidnapped the deceased and murdered him on account of the communal tensions in the area where the deceased and accused resided. Certain members of one community had engaged in illegal acts, questioning which a complaint had been lodged and action taken.

8. As a retaliatory measure, members of the other community had engaged in illegal acts as against the members of the other community, and ultimately the prosecution alleges that the four accused who are of one community, kidnapped the deceased with the intention of killing a member of the alternate community. This in brief is the case of the prosecution.

9. We find that though 23 witnesses have been examined, most of them have turned hostile. There are no eye witnesses to the murder. This is hence a case that must be made out only on circumstantial evidence. It is a settled



position that in order to prove the guilt of the accused based on circumstantial evidence the circumstances must form a clear, categoric and credible chain of events, unbroken and all of which point to the guilt of the accused only and none other.

10. As far as A3 is concerned, there is nothing incriminating brought on record by the prosecution. Though two of the witnesses state that A1 and A4 were last seen with the accused, even the circumstance of last-seen, has not been invoked in A3's case. The trial Court has decided the matter based on the fact that no direct evidence was available against the motive alleged by the prosecution.

11. In our view, this is an incorrect approach, as the settled position in law is that the burden is on the Prosecution to establish its case fully with direct and conclusive evidence. That apart, the trial Court relies upon the evidence of P.W.23, who is the Investigating officer. We are mystified as to how the testimony of the investigating officer could be taken to be a circumstance against the accused.

12. In the aforesaid circumstances and finding that a prima facie case has been made out, this petition is allowed and sentence as against A3 is suspended on the following conditions.

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- with two sureties each, of whom, one should be a blood relative, for a like sum to the satisfaction of the Learned II Additional District and Sessions Judge,



Arakkonam, Ranipet District.

(ii) The petitioner and 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 number to ensure their identity;

(iii) The petitioner shall appear before the trial Court on the first working day of every week at 10.30 a.m, until the disposal of the appeal and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an applications under Section 317 Cr.P.C and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

(A.S.M, J.) (S.M, J.)
19-08-2026

Index: Yes/No

Speaking order

Neutral Citation: Yes

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Note to Registry : Issue order copy on or before 20.08.2026.

To

1. The Inspector of Police
Arakkonam Taluk Police Station,
Ranipet District.
2. The Learned II Additional District and Sessions
Judge, Arakkonam, Ranipet District.
3. The Superintendent, Central Prison, Vellore.
4. The Public Prosecutor, High Court, Madras.



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AND
SUNDER MOHAN, J.

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