



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 08-07-2026**

**CORAM**

**THE HON'BLE MR JUSTICE M. NIRMAL KUMAR**

**CRL MP No. 23223 of 2025**

**in**

**Crl.A.No.848 of 2025**

Kamal Alias Madurai Muthu  
S/o.Vijaya Kumar,  
No.A-10, Penniamman Koil Street,  
Dr.Santhosh Nagar,  
Chennai - 8.

..Petitioner(s)

Vs

State rep by  
The Inspector of Police,  
Crime (Incharge),  
F-2, Egmore Police Station,  
Law and Order,  
Chennai - 8,  
Cr.No.608/2018

..Respondent(s)

**PRAYER:** This criminal miscellaneous petition filed under Section 430(1) of BNSS to suspend the sentence of conviction and imprisonment made against the Petitioner/Appellant/1st accused in the case in SC.No.215 of 2021 dated 16.06.2025 on the file of the XXI Additional Sessions Court at Allikulam, Chennai-3 in Cr.No.608 of 2018 on the file of the Inspector of Police, crime (in charge) F-2, Egmore police station, law and order, Chennai-08 and enlarge the petitioner on bail pending disposal of the above Criminal appeal.

For Petitioner(s): DR.S.MANOCHARAN

For Respondent(s): MS. SHARADA VIVEK  
GA (CRL. SIDE)



## **ORDER**

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The petitioner/accused A1 in S.C.No.215 of 2021, who was convicted by the trial Court by judgment dated 16.06.2025 and sentenced to 10 years Rigorous imprisonment and to pay a fine of Rs.10,000/- in default to undergo rigorous imprisonment for one year, has filed this petition.

2.The contention of the learned counsel for the petitioner is that the petitioner was initially charged along with another accused namely Deva @ Devan for the offence under Section 302 r/w 34 IPC. The trial Court had acquitted the second accused but convicted the petitioner under Section 326 IPC and sentenced him to undergo 10 years rigorous imprisonment.

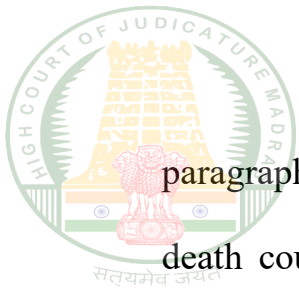
3. The learned counsel for the petitioner submitted that the conviction has been based by the trial Court primarily on the evidence of PW9 and MO1. Nowhere in the judgment, it has been said that MO1 the pendrive which is said to have captured the picture in the CCTV at the scene of occurrence was played in the Court, identified and thereafter overtact has been fixed. The trial Court had merely gone by the evidence of PW9 as seen from paragraph No.10.12 of the judgment of the trial Court.



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4.The learned counsel referring to the evidence PW9 states that on 16.10.2018, the police had come there, requested the CCTV recordings on 14.10.2018 between 2.00 to 3.00 p.m. and he had produced the same. In his evidence, he states that one person talking to another person from the middle of the road and to sideways and later, bus was standing and nothing more. That being so, the trial Court, on its own notion, had given a reasoning that in the footages, as could be seen from paragraph No. 10.14 of the Trial Court judgment, it has been recorded that as though the petitioner had assaulted the deceased and kept on banging the deceased on his occipital region against the Iron gate of Hotel Sudha violently.

5.The learned counsel further referring to the evidence of Post mortem Doctor PW12 submitted that from Ex. P4 the post mortem report, it is seen that there have been abrasions on the left knee, right knee, side neck and crush injury on the left side of the neck underlying the ribs and further, there have been left lung laceration and contusions on the vault of the skull and haemorrhage all over the brain. Thus, there is no explanation for these injuries and these injuries are not recorded in the CCTV and this is obviously due to the deceased falling on the road and run over by the bus. But, this part of evidence has not been considered. On the other hand, the trial Court in its judgment at



paragraph 10.11. states that though the postmortem doctor had stated that the death could be due to resultant injuries caused by being run over by a four wheeler/ vehicle like bus but the prosecution had not suggested to the doctor the deceased could have died due to the injuries sustained by being run over by bus as mentioned in the final report. This is nothing but the trial Court's own interpretation which is against the medical records.

6.The learned Govt. Advocate (Crl.Side) for the respondent filed her counter and submitted that on 14.10.2018 at about 14.50 hours the defacto complainant lodged a complaint to the respondent police that in front of Sudha Hotel, platform at EVR Road, the deceased was assaulted by hand and robbed of Rs.3,500/- from his pocket and when A1 tried to chase away the deceased, who had pleaded for return of his money and at that time A2 who had come, joined with A1 and both assaulted the deceased by hands and kicked him and banged him on the occipital region on the gate of Hotel Sudha and thereafter, pushed him in front of a moving bus and the deceased died. The case has been registered in Crime no.608 of 2018 and thereafter, charge sheet filed in this case. During trial PW1 to PW15 examined and Ex.P1 to P28 and Mos 1 to 10 have been marked.

7.Further, the learned Govt. Advocate (Crl.Side) submitted that as regards A2, the trial Court had acquitted him and as regards the petitioner/A1, there are



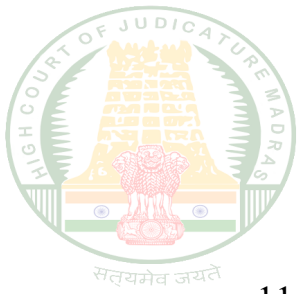
5 cases pending against him.

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8.Considering the submissions and on perusal of the materials available on record, it is seen that the petitioner is in prison from the date of judgment for the past one year and three months. The primary evidence in this case is the pendrive MO1 and CCTV recording found in MO1. The PW9 evidence is that he had collected the CCTV recordings and further deposed that he had only seen a person talking to another person from the middle of road to the side platform and they were talking and moving away and thereafter, he saw the bus. There is no evidence to confirm that the banging of the deceased on the forehead was by the petitioner due to which he died. The post mortem doctor PW12 gives a different reason in Ex.P4 report that the death might have been due to run over by four wheeler/vehicle like bus.

9.In view of the above, this Court finds that judgment of the Trial Court needs to re-appreciation.

10.Considering the fact that there are arguable points involved in this appeal and it would take some time for the appeal to be taken up for final hearing, this Court is inclined to suspend the sentence imposed on the petitioner.



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11. Accordingly, the substantive sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the above appeal and the petitioner is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

12. Further, the petitioner shall appear before the respondent police on first and third Monday of every month at 10.30 a.m. until the disposal of the criminal appeal.

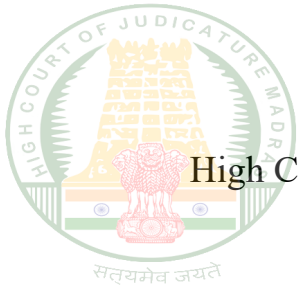
13. Accordingly, this Criminal Miscellaneous Petition is ordered.

**08-07-2026**

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

To

1. The XXI Additional Sessions Court at Allikulam, Chennai-3.
2. The Superintendent, Central Prison, Puzhal.
3. The Inspector of Police, Crime (Incharge),  
F-2, Egmore Police Station, Law and Order,  
Chennai – 8. Cr.No.608/2018
4. The Public Prosecutor



High Court, Madras.

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**M.NIRMAL KUMAR, J.**

sms

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