

*Crl.MP(MD) No.11529 of 2026 in
Crl.A(MD) No.695 of 2026*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :08.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.11529 of 2026
in Crl.A.(MD)No.695 of 2026

Rajasekar

... Petitioner

Vs.

State of Tamil Nadu,
The Inspector of Police,
Kumbakonam West Police Station,
Kumbakonam District.

... Respondent

Prayer: Petition filed under Section 430(1) of BNSS to suspend the sentence of imprisonment imposed on the petitioner by the Additional District and Sessions (Fast Track) Court, Kumbakonam, in S.C.No.156 of 2024 by the Judgment of conviction and sentence dated 12.02.2026 and enlarge the petitioner / appellant on bail, pending disposal of the above Criminal Appeal.

For Petitioner : Mr.S.Sankar

For Respondent : Mrs.V.Moushica,
Government Advocate (Crl. Side)



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ORDER

The petitioner, an accused in S.C.No.156 of 2024, on the file of the learned Additional District and Sessions Judge, Fast Track Court, Kumbakonam was found guilty by the Trial Court and was convicted and sentenced as under:-

Sl.No	Sections	Punishment	Fine amount	Default
1	311 BNS	7 years RI	Rs.1,000/-	6 months SI

As against the conviction and sentence imposed by the Trial Court in S.C.No.156 of 2024, dated 12.02.2026, the petitioner has filed a Criminal Appeal in Crl.A(MD)No.695 of 2026 and the same was admitted by this Court on 18.06.2026. The petitioner has also moved this application to suspend the sentence imposed on him by the Trial Court.

2. The case of the prosecution is that on 03.05.2024 at about 12.00 a.m., near ANK lodge, John Selvaraj Nagar, Accused Nos. 1 to 3 approached PW-1 and demanded money from him. When PW-1 refused, Accused No. 1 threatened him with a knife, while Accused Nos. 2 and 3 assaulted him with a wooden log, causing injuries. Thereafter, the accused



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persons snatched PW-1's bag containing an Oppo 12 Pro mobile phone, Lenovo Tab, Lava regular mobile phone, and Rs.20,000/- in cash, and fled from the scene. Hence, the case.

3.1. The learned counsel appearing for the petitioner submits that the petitioner was prosecuted for the offence under Section 397 of the Indian Penal Code (IPC). However, the Trial Court has convicted the petitioner under Section 311 of the Bharatiya Nyaya Sanhita, 2023 (BNS). He submits that such conviction is not proper, as the petitioner was prosecuted under the provisions of IPC and not under the provisions of BNS. Therefore, on this ground alone, the judgment of conviction passed by the Trial Court is liable to be set aside and remanded back.

3.2. The learned counsel further submits that the petitioner is not known to the victim PW1. However, the petitioner's name has been mentioned in the First Information Report itself. Identification parade was not conducted. Therefore, according to him, this is a foisted case. However, the Trial Court, without considering the available materials, has erroneously convicted the petitioner. Further, the petitioner was in jail



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from 05.05.2024 for a period of 130 days and thereafter, from the date of Judgment i.e., 12.02.2026. Hence, the learned counsel prays for grant of suspension of sentence.

4. The learned Government Advocate appearing for the respondent submits that the petitioner, along with A1 and A2, had committed robbery and snatched away the bag of the defacto complainant containing an Oppo 12 Pro mobile phone, Lenovo Tab, Lava regular mobile phone, and cash of Rs.20,000/-. He submits that the evidence of the defacto complainant and other witnesses clearly establishes the case against the petitioner. He further submits that the victim had sustained injuries and was admitted in the hospital. The accused persons were secured and produced before the victim at the hospital where he was undergoing treatment at the relevant point of time and the respondent police thereafter, proceeded to register the FIR. According to him, apart from the present case, the petitioner is involved in the following cases:

(i) Crime No.191/2024 on the file of the Kumbakonam West Police Station.



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(ii) Crime No.520/2024 on the file of the Kumbakonam

West Police Station.

5. This Court considered the rival submissions made and also perused the materials placed on record.

6. The petitioner was found guilty for the offence under Section 311 of BNS. The occurrence took place on 03.05.2024, the FIR was registered on the same day, and the petitioner was arrested on 05.05.2024, whereas the BNS came into force only on 01.07.2024. Though the petitioner was prosecuted for the offence under Section 397 IPC, the Trial Court convicted him under Section 311 BNS. No proper opportunity was provided to the petitioner/A3 before altering the offence. The Trial Court was not justified in imposing punishment under the provisions of BNS when the petitioner was prosecuted under IPC. The petitioner has also raised a contention that he was arrested without conducting any identification parade. He was in custody from 05.05.2024 for a period of 130 days and thereafter, from 12.02.2026 onwards pursuant to the judgment of the Trial Court.



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7. The petitioner has raised certain arguable points, which can be considered only during the final hearing of the appeal. However the appeal could not be taken up for final hearing for want of time. Considering the points raised by the petitioner, his period of incarceration and for the reasons that the appeal could not be taken up immediately, this Court is inclined to suspend the sentence imposed on the petitioner.

8. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioner is ordered to be enlarged on bail on the following conditions:-

- i. The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Kumbakonam.
- ii. The petitioner and the sureties shall submit a copy of their Aadhaar Card or any other identity card issued by the Government in proof of their residence address, before the Trial Court as well as before the respondent Police. In the event, if



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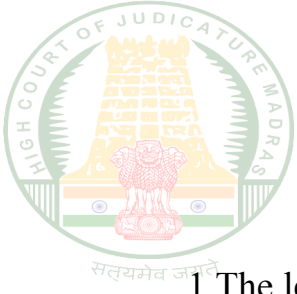
there is any change of address, the same shall be intimated to the respondent Police without fail.

- iii. The petitioner shall report before the respondent police, daily at 10.30 a.m., until further orders.
- iv. The petitioner and the sureties shall file an affidavit of undertaking before the respondent police that the petitioner will not involve in any offence in future.
- v. In the event, if the petitioner has violated any of the above conditions, it is open to the respondent police to file an application to cancel the bail granted to him.

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To



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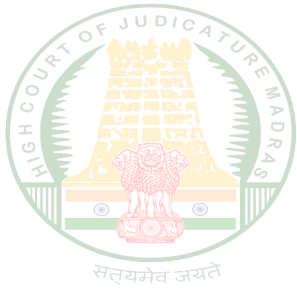
1.The learned Additional District and Sessions Judge,
Fast Track Court, Kumbakonam.

2.The learned Judicial Magistrate No.I,
Kumbakonam.

3.The Inspector of Police,
Kumbakonam West Police Station,
Kumbakonam District.

4.The Superintendent,
Central Prison,
Trichy.

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



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B.PUGALENDHI, J.,

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