

Crl.M.P.(MD)No.12537 of 2026
in Crl.A.(MD)No.533 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **28.07.2026**

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THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.12537 of 2026

in

Crl.A.(MD)No.533 of 2026

Malaichamy

... Petitioner

versus

The State of Tamil Nadu,
Rep. by the Inspector of Police,
Gudalur Nort Police Station,
Theni District.
[Crime No.222 of 2016]

... Respondent

Petition filed under Section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to suspend the sentence of imprisonment imposed by the District and Sessions Court for Communal Clash Cases, Madurai in CC.No.109 of 2018 by judgment dated 09.01.2026 and enlarge the petitioner / appellant on bail, pending disposal of the above said criminal appeal.

For Petitioner : Mr.S.Balaji
For Respondent : Mrs.V.Moushica
Government Advocate



*Crl.M.P.(MD)No.12537 of 2026
in Crl.A.(MD)No.533 of 2026*

ORDER

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The petitioner is accused No.2 in C.C.No.109 of 2018 on the file of the District and Sessions Court for Communal Clash Cases, Madurai. The petitioner was prosecuted along with accused Nos.1 and 3. The trial Court, by its judgment dated 09.01.2026, found the petitioner guilty, convicted and sentenced him to undergo 10 years imprisonment and to pay a fine of Rs.1,00,000/- in default to undergo 3 years simple imprisonment for the offence under Section 8(c) r/w 20(b)(ii)(B) of the NDPS Act. Challenging the judgment of conviction and sentence, the petitioner has filed an appeal before this Court in Crl.A(MD)No.533 of 2026 and the same was admitted by this Court on 30.04.2026. Along with the appeal, the petitioner has filed this petition to suspend the sentence imposed by the trial Court.

2.The learned counsel appearing for the petitioner submits that the quantity involved in this case is only 5 kgs. Further the mandatory provisions under Sections 42 and 50 of the NDPS Act are not complied with. The alleged consent letter relied on by the prosecution is a printed form, where in the blank spaces, the particulars of the petitioner are filled. However, the same does not contain the signature of the petitioner. He further submits that there is no



*Crl.M.P.(MD)No.12537 of 2026
in Crl.A.(MD)No.533 of 2026*

independent witness and the entire case is solely based on the police witnesses.

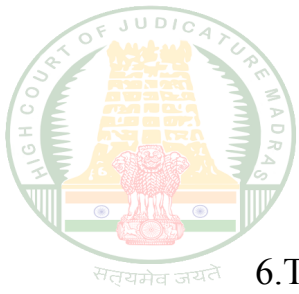
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There are several contradictions among the prosecution witnesses and there is an unexplained delay in sending the samples for analysis, which itself creates doubt on the very case of the prosecution.

3.He further submits that this court has suspended the sentence of this petitioner in the earlier petition in CrlMP(MD)No.9585 of 2026 on 04.06.2026. Since the petitioner had not surrendered after the conviction, this court has listed the matter for clarification and recalled the order dated 08.06.2026 and the petition was dismissed as withdrawn. Therefore, this 2nd petition is filed. He also submits that the petitioner has surrendered and he is in jail from 11.06.2026. The co-accused has already been enlarged on bail on 22.07.2026 in CrlMP(MD)No.13360 of 2026.

4.The learned Government Advocate opposes this petition that the trial court has considered the grounds raised by the petitioner and convicted the petitioner. The points raised by the petitioner can be considered only during the final hearing.

5.This Court considered the rival submissions made.



Crl.M.P.(MD)No.12537 of 2026

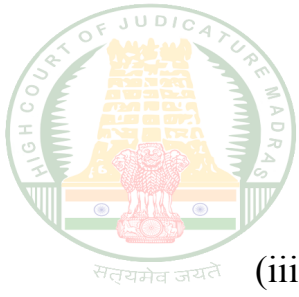
in Crl.A.(MD)No.533 of 2026

6.The quantity of ganja involved in this case is 5kgs.The Criminal Appeal filed by the petitioner has been admitted by this Court. 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 immediately for final hearing. The petitioner is in jail from 11.06.2026. Considering the quantity of ganja involved in this case, the period of incarceration and also considering the fact that the appeal could not be taken up for final disposal for want of time and co-accused has been granted bail, this Court is inclined to allow this petition.

7.Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal on the following conditions:

(i) the petitioner is ordered to be enlarged on bail on executing a bond for Rs.1,00,000/- (Rupees one lakh only) with two sureties each for a like sum to the satisfaction of the learned District and Sessions Judge, Communal Clash Cases, Madurai.

(ii) The petitioner and the sureties shall file an affidavit before the respondent police that the petitioner will not misuse this liberty, will not indulge in any further offence, pending the appeal.



*Crl.M.P.(MD)No.12537 of 2026
in Crl.A.(MD)No.533 of 2026*

(iii) The petitioner shall report before the respondent police daily at 10.30am.

(iv) If the petitioner changes his residence, it shall be informed to the respondent police immediately.

(v) If the petitioner violates any of the conditions, the respondent police shall move an application to cancel the order of suspension of sentence of imprisonment.

28.07.2026

DSK

To

- 1.The District and Sessions Court
for Communal Clash Cases,
Madurai.
2. The Superintendent,
Central Prison, Madurai.
- 3.The Inspector of Police,
Gudalur Nort Police Station,
Theni District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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*Crl.M.P.(MD)No.12537 of 2026
in Crl.A.(MD)No.533 of 2026*

B.PUGALENDHI, J.

DSK

**Crl.M.P.(MD)No.12537 of 2026
in
Crl.A.(MD)No.533 of 2026**

28.07.2026