



Crl.M.P.No.3388 of 2025
in Crl.RC.No.341 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-02-2025

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THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL MP NO. 3388 of 2025

IN

CRL RC NO. 341 OF 2025

Senthil Kumar
S/o.Thangavel, No.4/16, Vadakku Kattu Kottaim,
Illuppanatham Post, Gangavalli Taluk,
Salem District.

Petitioner/Accused

Vs

State Rep.By,
The Inspector Of Police,
Ammapet Police Station, Salem District.
Cr.No.575 Of 2017.

Respondent/Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Sections 430(1) of BNSS, praying to enlarge the petitioner on bail by suspending the sentence imposed in C.C.No.165 of 2017 dated 30.01.2023 on the file of Judicial Magistrate No.5, Salem confirmed in C.A.No.33 of 2023 dated 04.01.2025 on the file of III Additional District Judge, Salem, pending disposal of the above Criminal Revision.



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For Petitioner(s):

Mr.M. Rajkumar

For Respondent(s):

Mr.S. Sugendran

Additional Public Prosecutor

ORDER

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence of imprisonment imposed on the petitioner in judgment dated 04.01.2025 passed in Crl.A.No.33 of 2023 on the file of learned III Additional District Court, Salem, confirming the judgment dated 30.01.2023 passed in C.C.No.165 of 2017 on the file of learned Judicial Magistrate Court No.5, Salem and enlarge the petitioner on bail pending disposal of the above Criminal Revision Petition.

2.The petitioner/Accused in C.C.No.165 of 2017 was convicted by the Trial Court by the judgment dated 30.01.2023 for the offence under Sections 279, 377 and 304-A of I.P.C. and directed to pay a fine of Rs.1,000/-



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in default, to undergo one month simple imprisonment for offence under Section 279 of I.P.C., directed to pay a fine of Rs.500/-, in default, to undergo one month simple imprisonment for offence under Section 377 of I.P.C. and sentenced to undergo one year simple imprisonment for offence under Section 304-A of I.P.C. Aggrieved by the same, the petitioner preferred an appeal in Crl.A.No.33 of 2023 before the learned III Additional District Judge, Salem. The learned District Judge, by the judgment dated 04.01.2025, dismissed the appeal confirming the conviction and sentence of the trial Court, against which, he filed Crl.R.C.No.341 of 2025 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

3.The contention of the petitioner is that petitioner is a lorry driver.

On 27.08.2017, while he was driving his lorry near Ganesh college, Chennai Bypass, due to sudden crossing of an animal in the road, the petitioner in



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order to avoid hitting the animal turned the vehicle to his right and dashed against the barrigaurd. Thereafter, he lost the control of the vehicle. PW2/husband of the deceased, who was proceeding in a two wheeler along with his wife, on seeing the accident, lost control of his vehicle and they fell down, whereby his wife sustained fatal injury and died on the spot. The case projected against the petitioner is that petitioner dashed against the two wheeler. The Motor Vehicle report confirms that there is no damage to the two wheeler and there was no impact of the petitioner's lorry on the two wheeler and petitioner not the reason for the accident. In this case, PW4 and PW5, who are said to have been present in the scene of occurrence, had given a version that petitioner dashed against the barriguard, driven the vehicle in a rash and negligent manner, but the Investigating Officer confirms that there is no barriguard and there is no reference to the barriguard in the rough sketch. The trial Court as well as the Lower Appellate Court failed to consider the same. Hence the genesis of the case becomes doubtful.



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4.The learned Additional Public Prosecutor on the other hand submitted that in this case PW1, son of the deceased on 27.08.2017 at about 8.30 p.m. received a phone call and he was informed that his parents met with an accident at Chennai Bypass, near Ganesh College. He went to the scene of occurrence and thereafter lodged a complaint. While PW2/father of PW1, an injured witness, who was riding his two wheeler, the lorry driven by the petitioner hit the two wheeler from the behind and PW2 and his wife Mathammal fell down and she died on the spot. PW4 and PW5 are the witnesses present near the scene of occurrence, who saw the accident. PW6 and PW7 are witnesses to the observation mahazar. PW8/Sub-Inspector of Police received complaint and registered F.I.R. PW9 is the Investigating Officer. In this case, PW1 to PW9 examined, Exs.P1 to P9 marked including the Motor Vehicle Inspector's report and the Post-mortem report. But fairly submitted that neither the Motor Vehicle Inspector nor the Post-mortem



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Doctor examined in this case and Exs.P6, P7 and P8 were marked through the Investigating Officer.

5.Considering the submissions made and the fact that the petitioner has raised substantial grounds in the above revision, which requires consideration, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

6.Accordingly, the substantive sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the revision and he 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.

7.Further, the petitioner shall appear before the Trial Court once in three months at 10.30 a.m. on the first working day of the month, until the



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disposal of the revision and if he is not able to appear before the Trial Court on that day, he 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 his absence as directed by the Trial Court.

8. Accordingly, this Criminal Miscellaneous Petition is ordered.

26.02.2025
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To

1. The III Additional District Judge,
Salem,
2. The Judicial Magistrate No.5,
Salem.
3. The Inspector Of Police,
Ammamet Police Station, Salem District.
4. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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