



Crl.M.P.No.7528 of 2024
in Crl.A.No.532 of 2024

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2025

CORAM:

**THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR. JUSTICE V. LAKSHMINARAYANAN**

Crl.M.P.No.7528 of 2024
in Crl.A.No.532 of 2024

Venkatesan

... Petitioner/A1

Vs.

State By
The Inspector Of Police,
Sankarapuram Police Station,
Kallakurichi District.
(Crime No.153 of 2022)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of the Criminal Procedure Code, seeking to suspend the sentence of imprisonment passed by the learned Additional District & Sessions Judge, Kallakurichi dated 26.03.2024 in S.C.No.220 of 2022 and release the petitioner/appellant on pending disposal of the appeal.



Crl.M.P.No.7528 of 2024
in Crl.A.No.532 of 2024

WEB COPY

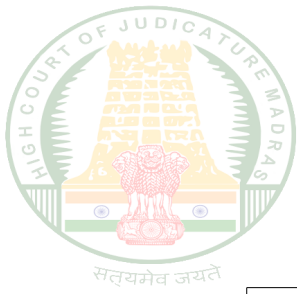
For Petitioner : Mr.S.Kingston Jerold
For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor
assisted by Ms.M.Arifa Thasneen

ORDER

(Order of the Court was made by *M.S.RAMESH. J.*)

This Criminal Miscellaneous Petition has been filed seeking to enlarge the petitioner on bail by suspending the sentence imposed in S.C.No.220 of 2022 dated 26.03.2024 on the file of the learned Additional District & Sessions Judge, Kallakurichi pending disposal of the Criminal Appeal.

2. The petitioner is arrayed as A1 in S.C.No.220 of 2022. The learned Additional District & Sessions Judge, Kallakurichi vide judgment dated 26.03.2024 has convicted and sentenced him as follows:-



Crl.M.P.No.7528 of 2024
in Crl.A.No.532 of 2024

WEB COPY

<i>Accused</i>	<i>Offence</i>	<i>Sentence</i>
A1	Section 148 IPC	3 months SI and a fine of Rs.2,000/-, I/d 3 weeks of SI
	Section 294(b) IPC	1 month SI and a fine of Rs.2,000/-I/d 2 weeks of SI
	Section 302 of IPC	Life imprisonment and a fine of Rs.10,000/-, I/d 6 months of SI

The sentences are ordered to run concurrently.

3. While the judgment of the trial Court is under challenge in the main Appeal, the petitioner seeks for suspension of sentence in the present Miscellaneous Petition.

4. Learned counsel for the petitioner submitted that the present case arises out of a clash between two parties, and though three of the accused had sustained injuries and had taken treatment, apart from lodging a complaint to the concerned police, the prosecution has not offered any explanation regarding the injuries sustained by the accused party. Therefore, he sought for suspension of sentence imposed on the petitioner.



Crl.M.P.No.7528 of 2024
in Crl.A.No.532 of 2024

WEB COPY

5. Learned Additional Public Prosecutor for the respondent submitted that there are five eyewitnesses namely P.W.1 to P.W.5, who had categorically deposed about the occurrence and had implicated all the accused of the offences. In view of the statements of these ocular witnesses, he submitted that the Trial Court had rightly recorded the guilt of the accused and sentenced him accordingly. Hence, he sought for dismissal of this petition.

6. As pointed out by the learned counsel for the petitioner, P.W.26, the Sub-Inspector of Police, had received the complaints from the deceased, as well as the accused, a fact which he has admitted during the cross examination. In spite of the same, the Investigating Officer, P.W.27, failed to explain the counter case and the injuries sustained by the accused. On the side of the defence, D.W.1 and D.W.2, the Government doctors who had treated the accused 1 to 3 were examined, and through them, the wound certificate, Ext.D1 and Accident Registrar, Ext.D2 were marked.



Crl.M.P.No.7528 of 2024
in Crl.A.No.532 of 2024

WEB COPY

7. On a perusal of this evidence, it is evident that the accused had indeed sustained injuries. However, the fact has not been explained by the prosecution. In this background, it becomes difficult to conclusively determine who was the actual perpetrator of the incident.

8. In view of several judgments of the Hon'ble Supreme Court holding that non explanation of the injuries sustained by the accused or the counter complaint arising from the same incident would be fatal to the prosecution, and considering that the petitioner may have a fair chance of success in the appeal, we are inclined to suspend the sentence of the petitioner/A1.

9. Accordingly, this Criminal Miscellaneous Petition stands **allowed**, and the sentence imposed on the petitioner herein, is suspended till the disposal of the appeal and he 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/-, with two sureties each, for a like sum to the satisfaction of the Additional District and



WEB COPY



Crl.M.P.No.7528 of 2024
in Crl.A.No.532 of 2024

Sessions Judge, Kallakurichi;

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and

(iii) The petitioner shall appear before the Trial Court on the first working day of every month at 10.30 A.M., until the disposal of the appeal and if he is not able to appear before the Trial Court on any 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.

(M.S.R, J.)

(V.L.N, J.)

19.06.2025

Anu

Note: Issue order copy on 19 .06.2025



Crl.M.P.No.7528 of 2024
in Crl.A.No.532 of 2024

WEB COPY
To

- 1.The Additional District & Sessions Judge, Kallakurichi
- 2.The Inspector Of Police,
Sankarapuram Police Station,
Kallakurichi District.
- 3.The Superintendent of Prison,
Central Prison, Cuddalore
- 4.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.M.P.No.7528 of 2024
in Crl.A.No.532 of 2024

M.S.RAMESH, J.
and
V. LAKSHMINARAYANAN, J.

Anu

Crl.M.P.No.7528 of 2024
in Crl.A.No.532 of 2024

19.06.2025