



Crl.M.P.No.12349 of 2025
in Crl.A.No.478 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Crl.M.P.No.12349 of 2025
in Crl.A.No.478 of 2024

Santhosh Kumar

Petitioner(s)/2nd Accused

Vs

The State represented by
The Inspector of Police,
Thali Police Station,
Hosur, Krishnagiri District.

Respondent(s)/Complainant

Civil Miscellaneous Petition filed under Section 389(1) Cr.P.C. [Section 430(1) BNSS], to suspend the sentence imposed on the petitioner by judgment dated 29.01.2024 passed in S.C.No.35 of 2018 on the file of Additional District and Sessions Court, Hosur, Krishnagiri District and to enlarge the petitioner on bail pending disposal of the above appeal.



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For Petitioner(s) : Mr.M.Mohamed Riyaz
for Mr.G.Mohammed Aseef

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor
assisted by Ms.M.Arifa Thasneem

ORDER

(Made by N.Sathish Kumar, J.)

This criminal miscellaneous petition has been preferred seeking to suspend the sentence imposed on the petitioner by judgment dated 29.01.2024 passed in S.C.No.35 of 2018 on the file of Additional District and Sessions Court, Hosur, Krishnagiri District and to enlarge him on bail pending disposal of the above appeal.

2. The petitioner, who was the second accused in S.C.No.35 of 2018 before the Additional District and Sessions Court, Hosur, Krishnagiri District, was convicted and sentenced as follows:

<i>Provision under which convicted</i>	<i>Sentence</i>
Section 302 r/w 34 IPC	Life imprisonment and fine of Rs.2,000/-, in default to undergo six months simple imprisonment.
Section 392 r/w 397 IPC	Seven years rigorous imprisonment.
Section 201 IPC	Three years simple imprisonment.



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<i>Provision under which convicted</i>	<i>Sentence</i>
The aforesaid sentences were ordered to run concurrently.	

3. Challenging the above conviction and sentences, the petitioner has filed Crl.M.P.No.7091 of 2024 in Crl.A.No.478 of 2024 seeking suspension of sentence and bail and the same was dismissed as withdrawn on 14.03.2025. The instant miscellaneous petition is the second petition seeking suspension of sentence and bail.

4. The learned counsel appearing for the petitioner would submit that the entire case is based on circumstantial evidence. He would further submit that in FIR, different name has been given, whereas, in PW2's evidence, the petitioner's name has been implicated and however, PW2 has not even identified the petitioner. Further, he would submit that the entire case is based on the extrajudicial confession and the alleged last seen theory, inasmuch as, there are two different versions one by PW2 and other by PWs.7 to 9. It is his further submission that the petitioner is in judicial custody. Stating so, he prayed for the grant of suspension of sentence and



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bail to the petitioner.

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5. The learned Additional Public Prosecutor appearing for the respondent/police has filed a counter affidavit and opposed for the grant of suspension of sentence and bail to the petitioner.

6. On considering the rival submissions and perusing the entire materials available on record, we are of the view that the petitioner has made out a *prima facie* case for suspending the sentence.

7. The petitioner has raised substantial grounds in the appeal which require detailed appraisal. Moreover, the petitioner is in incarceration. Further, the appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

8. Accordingly, this criminal miscellaneous petition is allowed and the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:



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- (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 Sessions Court, Hosur, Krishnagiri District;
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;
- (iii) The petitioner shall appear before the respondent/police on every Monday 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; and
- (iv) On breach of any of the aforesaid conditions, the learned Sessions Judge is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Sessions Judge himself as laid down by the Hon'ble Supreme Court in ***P.K.Shaji vs. State of***



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Kerala [(2005)AIR SCW 5560].

**(N.S.K., J.) (M.J.R., J.)
25.11.2025**

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To

- 1.The Additional District and Sessions Court, Hosur,
Krishnagiri District.
- 2.The Inspector of Police,
Thally Police Station,
Hosur, Krishnagiri District.
- 3.The Superintendent, Central Prison, Salem.
- 4.The Public Prosecutor, Madras High Court,
Chennai – 600 104.



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N.SATHISH KUMAR, J.
and
M.JOTHIRAMAN, J.

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