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*Crl.M.P.No.719 of 2025
in Crl.R.C.No.83 of 2025*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.719 of 2025
in
Crl.R.C.No.83 of 2025

Thangaraju

...Petitioner

Vs.

The State represented by
The Inspector of Police,
Sankari Police Station,
Salem District,
Crime No.30 of 2019

...Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 438(1) r/w 438 of the Bharatiya Nagarik Suraksha Sanhita praying to suspend the sentence imposed on the petitioner in C.C.No.40/2019 by a judgment dated 10.05.2023 on the file of learned Judicial Magistrate No.I, Sankari and confirmed in Criminal Appeal No.86 of 2023 on the file the III Additional District Judge, Salem by a Judgment dated 22.11.2024 and release the petitioner on bail, pending disposal of the above Criminal Revision.



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For Petitioner : Mr.M.Guruprasad
For Respondent : Mr.S.Udaya Kumar
Govt. Advocate (Crl.side)

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner in C.C.No.40 of 2019 by judgment dated 10.05.2023 on the file of the learned Judicial Magistrate No.I, Sankari and confirmed in Criminal Appeal No.86 of 2023 on the file of the learned III Additional District Judge, Salem, by judgment dated 22.11.2024 and release the petitioner on bail, pending disposal of the above Criminal Revision.

2. It is the case of the prosecution that on 25.01.2019, at about 3.30 p.m, while the deceased was proceeding in his two-wheeler, the petitioner, who was driving his lorry had driven the same in a rash and negligent manner and dashed against the two-wheeler, which resulted in the death of the deceased.

3. The petitioner/accused in C.C.No.40 of 2019 was convicted by the Trial Court by judgment dated 10.05.2023 for the offences under Sections 279 and 304-A of IPC and sentenced to undergo six months of imprisonment and



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to pay a fine of Rs.1,000/- in default, to undergo two weeks of simple imprisonment for the offence under Section 279 of I.P.C. and to undergo imprisonment for two years and to pay a fine of Rs.1,000/-, in default, to undergo two weeks of simple imprisonment for the offence under Section 304-A of IPC. The sentences were ordered to run concurrently. Aggrieved by the same, the petitioner/accused preferred an appeal in Crl.A.No.86 of 2023 before the learned III Additional District Judge, Salem. The learned Judge, by Judgment dated 22.11.2024, dismissed the appeal confirming the conviction and sentence passed by the trial Court, against which, he filed Crl.R.C.No.83 of 2025 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. Mr.M.Guruprasad, the learned counsel for the petitioner would submit that the petitioner has raised several arguable points in the above revision; that the pillion rider who travelled with the deceased in the two wheeler was not examined though his statement was recorded under Section 164 Cr.P.C.; that P.W.2 and P.W.3 have admitted that they had not witnessed the occurrence; that the report of the Motor Vehicle Inspector, would suggest that the accident did not take place in the manner alleged by the prosecution;



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that the Motor Vehicle Inspector was not examined by the prosecution; and that pursuant to the Judgment of the Appellate Court, the petitioner had surrendered and now he is in custody in Central Jail, Salem.

5. Mr.S.Udaya Kumar, the learned Government Advocate (Criminal Side) for the respondent, on instructions, would confirm that the petitioner has surrendered.

6. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Crl.Side) appearing for the respondent and perused the records.

7. Considering the submissions made by the learned counsel for the petitioner, the fact that the petitioner has raised substantial grounds in the above revision and since the petitioner has surrendered on 22.01.2025, this Court is inclined to grant the relief of suspension of sentence to the petitioner

8. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioner is suspended till the disposal of the



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above Criminal Revision and the petitioner is ordered to be released on bail on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.10,000/-, with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Sankari;
- (ii) The petitioner and 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 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 revision 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.

**23.01.2025
(3/3)**

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Note: Issue order copy on 24.01.2025.



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Copy to:

- 1.The Judicial Magistrate No.I,
Sankari
- 2.The III Additional District Judge,
Salem.
3. The Superintendent,
Central Jail,
Salem.
- 4.The Inspector of Police,
Sankari Police Station,
Salem District.
- 5.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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