



Crl.MP(MD)No.11822 of 2025
in
Crl.R.C.(MD)No.1226 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.10.2025

CORAM

THE HONOURABLE MR.JUSTICE SHAMIM AHMED

Crl.MP(MD)No.11822 of 2025
in
Crl.RC.(MD)No.1226 of 2025

Sankar,
S/o.Balakrishnan,
Keezha Sarakkalvilai,
Kanyakumari District.

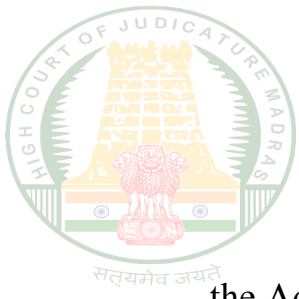
... Petitioner

Vs.

The State of Tamil Nadu,
Represented by its,
The Inspector of Police,
Thuckalay Police Station,
Nagercoil,
Kanyakumari District.
(Crime No.1239 of 1992)

... Respondent

Prayer : This Criminal Miscellaneous Petition filed under Section 430 of B.N.S.S. praying to enlarge the Petitioner on bail by suspending the sentence imposed in Crl.A.No.66 of 2011 dated 30.07.2024 on the file of



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the Additional District and Session Court, Padmanabhapuram confirming the judgment passed in S.C.No.146 of 2003 dated 13.07.2011 on the file of the Assistant Session Court, Padmanabhapuram.

For Petitioner : Mr.R.J.Karthick
For Respondent : Mr.M.Karunanithi
Government Advocate
(Criminal Side)

ORDER

Heard Mr.R.J.Karthick, learned counsel for the Petitioner and Mr.M.Karunanithi, learned Government Advocate (Criminal Side) for the Respondent.

2. This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed upon the petitioner, by the Additional District and Session Court, Padmanabhapuram in Crl.A.No. 66 of 2011 dated 30.07.2024, confirming the judgment passed by the the Assistant Session Court, Padmanabhapuram in S.C.No.146 of 2003 dated 13.07.2011.

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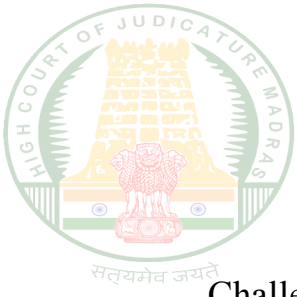
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3. The petitioner, who was arrayed as Accused No.8 in final report was convicted and sentenced by the trial court in S.C.No.146 of 2003 dated 13.07.2011 as follows:

Petitioner's Rank	Provision under which convicted	Sentence
Accused No.8	U/s.148, 324, 307 r/w 149 of IPC	To undergo 1 year rigorous imprisonment and to pay a fine of Rs.1000/-, in default, to undergo 3 months simple imprisonment. To undergo 1 year rigorous imprisonment and to pay a fine of Rs.1000/-, in default, to undergo 3 months simple imprisonment. To undergo 7 years rigorous imprisonment and to pay a fine of Rs.5000/-, in default, to undergo 3 months simple imprisonment.

The judgment of conviction and sentence imposed on the petitioner by the trial court was confirmed by the Additional District and Session Court, Padmanabhapuram in Crl.A.No.66 of 2011 dated 30.07.2024.



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Challenging the above conviction and sentence, the petitioner has filed Criminal Revision Petition in Crl.RC(MD)No.1226 of 2025 along with the instant miscellaneous petition, seeking suspension of sentence and bail.

4. The learned counsel for the Petitioner submitted that both the Trial Court and the Lower Appellate Court failed to consider that the name of the Petitioner was not in the FIR and the Petitioner was not known by the defacto complainant or any witness. The Respondent Police failed to conduct an Identification parade under Section 51A of cr.p.c. Further, the Petitioner viz., Sankar was not present before the Court which inference can be drawn from the PW1 deposition. He further submitted that the Trial Court and the Appellate Court failed to properly appreciate the fact that PW1 during cross -examination clearly admitted that he knew only Bharathy/Accused No.3 and no other accused, including the Petitioner. In view of the above, it was argued that the conviction recorded by the Trial Court is legally unsustainable. It



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was further argued that the learned Trial Court as well as Lower Appellate Court also failed to notice the discrepancies in the deposition of witnesses and the crystal part of the evidences was not at all assessed by both the Courts. It was further argued that the judgment passed by both the Courts was based on surmises and conjectures without considering the entire evidence on record.

5. It was further argued that due to pendency of the criminal cases before this High Court, there is a blinking chance that in the near future, this criminal revision case will be finally heard and decided. He further submits that there are arguable points in this Revision and the petitioner has fair chance of success in this Criminal Revision Case. Thus, he prayed for suspension of sentence and be released on bail, till the disposal of this Criminal Revision Petition, as the Petitioner was already granted bail during trial.



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6. Several other submissions in order to demonstrate the falsity of the allegations made against the Revision Petitioner have also been placed forth before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been touched upon at length. It has been assured on behalf of the revision petitioner that he is ready to cooperate with the process of law and shall faithfully make himself available before the Court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. The Revision Petitioner undertakes that, in case, he is released on bail, he will not misuse the liberty of bail and will cooperate in disposal of revision.

7. In compliance with the order dated 03.09.2025 passed by this Court in the Criminal Revision Petition, a counter affidavit has been filed by Mr.M.Karunanithi, learned Government Advocate, on behalf of the respondent on 03.10.2025, and the same is taken on record. No new facts have been brought forth in the counter affidavit.



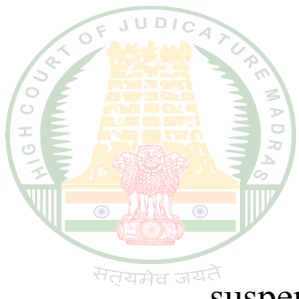
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8. Learned Government Advocate (Criminal Side) appearing for the Respondent has opposed the argument advanced by the learned counsel for the Revision Petitioner and submits that the judgments passed by both the Courts are as per law after considering the entire evidence, thus the relief sought by the Revision Petitioner at this stage be refused by this Court.

9. Considering the arguments advanced by the learned counsel for the petitioner, this Court is of the view that the Trial Court has failed to appreciate the evidence on record and the judgment was passed without considering the entire materials place before it and during trial the Revision petitioner was also on bail.

10. Further, it is observed that when the accused has been under incarceration for sometime and when there are points in the revision, which favour the accused, then the Courts should not shy from granting



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suspension of sentence, as the liberty of the individual would be at stake if the revision results in acquittal at a later point of time. In this regard, the decision of the Hon'ble Supreme Court of India in the case of ***Rabi Prakash Vs. The State of Odhisha reported in 2023 Live Law (SC) 533*** is of relevance.

11. The petitioner has raised substantial grounds in the Revision which require detailed appraisal. Further, the Revision 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 Revision petitioner is entitled to the relief of suspension of sentence and bail.

12. Accordingly, the relief of suspension of sentence and bail is granted to Revision Petitioner namely Sankar, S/o.Balakrishnan on the following conditions:



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- (i) The Revision petitioner shall surrender before the Assistant Sessions Court, Padmanabhapuram within three weeks from today and on such surrender, the revision petitioner is ordered to be released on bail on his executing a personal bond along with two sureties for a sum of Rs.10,000/- each subject to furnishing undertaking that he will co-operate in the hearing of the present Revision.
- (ii) The Revision petitioner and sureties shall affix their photographs and Left Thumb Impression in the bond and the above said Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity; and;
- (iii) The realization of fine, if any, shall also remain suspended during the pendency of the present Revision.
- (iv) The petitioner shall appear before the Assistant Sessions Court, once in every month, ie., on the first working day, commencing from the month of November 2025, at 10.30 a.m., until further orders.



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13. On acceptance of his bail bonds and sureties, the learned Trial Court shall transmit photostat copies thereof to this Court for being kept on records of this Revision.

14. With the above directions, this Criminal Miscellaneous Petition is ordered.

15. Put up the Criminal Revision Petition “For Final Hearing” on **27.11.2025** before appropriate bench along with Trial Court records.

06.10.2025

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To:

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- 2.The Additional District and Session Court, Padmanabhapuram.
- 3.The Inspector of Police,
Thuckalay Police Station,
Nagercoil,
Kanyakumari District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SHAMIM AHMED, J.

Nsr

Order made in
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Dated: 06.10.2025