



Crl.MP(MD)No.16661 of 2025
in
Crl.R.C.(MD)No.1421 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.11.2025

CORAM

THE HONOURABLE MR.JUSTICE SHAMIM AHMED

Crl.MP(MD)No.16661 of 2025
in
Crl.RC.(MD)No.1421 of 2025

1.Kalaisamy @ Kanagavel,
S/o.Govindan Nadar,
Mangapuram Street,
Srivilliputhur,
Virudhunagar District.

2.Selvakumar,
S/o.Thangavel Nadar,
Athimarapatti,
Muthaiyapuram,
Tuticorin Taluk,
Tuticorin District.

... Petitioner

Vs.

The State of Tamil Nadu,
Represented by,
The Inspector of Police,
Pasuvanthanai Police Station,
Pasuvanthanai,
Tuticorin District.
Crime No.32 of 2007

... Respondents



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Prayer : This Criminal Miscellaneous Petition filed under Section 430 of B.N.S.S. praying to suspend the Sentence imposed upon the Revision Petitioners in Crl.A.No.37 of 2016 on the file of the learned Additional District Judge, Srivilliputhur, dated 30.07.2025, by which confirming the judgment and conviction order in C.C.No.705 of 2013 on the file of the learned Special Court (Idol Theft Cases) cum Chief Judicial Magistrate, Virudhunagar District @ Srivilliputhur, by its judgment dated 07.04.2016, pending disposal of the above Criminal Revision Petition.

For Petitioners : Mr.S.Deenadhayan

For Respondent : Mr.A.S.Abul Kalam Azad
Government Advocate

ORDER

Heard Mr.S.Deenadhayan, learned Counsel for the Revision Petitioner and Mr.A.S.Abul Kalam Azad, learned Government Advocate for the Respondent.

2. This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed upon the Revision Petitioners



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by the learned Special Court (Idol Theft Cases) cum Chief Judicial Magistrate, Virudhunagar District @ Srivilliputhur, in C.C.No.705 of 2013, dated 07.04.2016, which was confirmed by the learned Additional District Judge, Srivilliputhur, in Criminal Appeal No.37 of 2016 , dated 30.07.2025, wherein the Revision Petitioners, were convicted for offence under Section 457(2) of IPC and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.2000/-, in default, to undergo simple imprisonment for six months and for offence under Section 380 IPC, they were sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.1000/-, in default, to undergo simple imprisonment for three months. Challenging the above conviction and sentence, the Revision Petitioner has filed Criminal Revision Petition in Crl.RC(MD)No.1421 of 2025 along with the instant miscellaneous petition, seeking suspension of sentence and bail.

3. The learned counsel for the Revision Petitioners submitted that both the Trial Court as well as the Appellate Court failed to cross



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examine the PW-1 in a proper and perspective manner and also failed to appreciate the fact that the FIR had been registered on 05.11.2007, however, alleged recovery has been made on 20.10.2009, hence it is highly improbable to identify the Idol (MO-1) and small Pottu Thali (MO2), broken locks (MO-3). The Courts below failed to consider the fact that as per evidence of PW-1 and PW-3, the recovered Idol was without hand and head. Hence, it is highly improbable to identify the Idol which was stolen. The Courts below also failed to appreciate the fact that there are numerous materials contractions with regard to alleged Arrest, Confession and Recovery.

4. In view of the above, it was argued that the conviction recorded by the Trial Court is legally unsustainable. It was further argued that the learned Trial Court as well as 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



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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 Revision Petitioners have 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 Revision Petitioners were already granted bail during trial.

6. Several other submissions in order to demonstrate the falsity of the allegations made against the Revision Petitioners 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



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petitioners that they are ready to cooperate with the process of law and shall faithfully make themselves available before the Court whenever required and are also ready to accept all the conditions which the Court may deem fit to impose upon them. The Revision Petitioners undertake that, in case, they are released on bail, they will not misuse the liberty of bail and will cooperate in disposal of revision.

7. Learned Government Advocate appearing for the Respondent has opposed the argument advanced by the learned counsel for the Revision Petitioners 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 Petitioners at this stage be refused by this Court.

8. Considering the arguments advanced by the learned counsel for the Revision Petitioners and the learned Government Advocate for the Respondent, this Court is of the view that the Trial Court has failed to appreciate the evidence on record and the judgment was passed without



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considering the entire materials place before it and during trial the Revision petitioners were also on bail.

9. 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 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.

10. The Revision Petitioners have 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 petitioners are entitled to the relief of suspension of sentence and bail.



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11. Accordingly, the relief of suspension of sentence and bail is granted to Revision Petitioners viz., Kalaisamy @ Kanagavel, S/o.Govindan Nadar and Selvakumar, S/o.Thangavel Nadar, on the following conditions:

- (i) The Revision petitioners shall surrender before the learned Special Court (Idol Theft Cases) cum Chief Judicial Magistrate, Virudhunagar District @ Srivilliputhur, within three weeks from today and on such surrender, the Revision Petitioners are ordered to be released on bail on their executing personal bond along with two sureties for a sum of Rs.10,000/- each subject to furnishing undertaking that they will co-operate in the hearing of the present Revision.
- (ii) The Revision petitioners 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;



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(iii) The realization of fine, if any, shall also remain suspended during the pendency of the present Revision.

(iv) The Revision Petitioners shall appear before the learned Special Court (Idol Theft Cases) cum Chief Judicial Magistrate, Virudhunagar District @ Srivilliputhur, once in every month, ie., on the first working day, commencing from the month of December 2025, at 10.30 a.m., until further orders.

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

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

12.11.2025

Nsr

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To:

- 1.The Special Court (Idol Theft Cases) cum Chief Judicial Magistrate,
Virudhunagar District @ Srivilliputhur
- 2.The Additional District Judge, Srivilliputhur.
- 3.The Inspector of Police,
Pasuvanthanai Police Station,
Pasuvanthanai,
Tuticorin 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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