



WEB COPY

CRL MP No. 4568 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-04-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

**CRL MP No. 4568 of 2026
in CRL A NO. 264 OF 2026**

M.Elumalai
S/o.Panjan,
Ambedhkar Nagar, Karani Village,
Kandachipuram, Villupuram District.
Now confined at
Central Prison, Cuddalore.
PID 558978

..Petitioner(s)

Vs

The State The Inspector of Police
Kandachipuram Police Station,
Villupuram District.
Crime No. 208/2017.

..Respondent(s)

Petition filed under Section 430 (1) read with Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) to suspend the sentence imposed by Judgment in SC.No.301 of 2017 dated 08.12.2023 on the file of Sessions Judge Magalir Neethi Mandram (Fast Track Mahila Court), Villupuram and to enlarge the petitioner on bail pending disposal of the above said Criminal Appeal case and pass further or other order.



WEB COPY



For Petitioner(s): Mr.P.Kannan

For Respondent(s): Mr.S.Raja Kumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by Dr.Anita Sumanth J.)

The petitioner has been convicted on 08.12.2023 in S.C.No.301 of 2017 for the offences under Section 498(A) and 302 IPC.

2. The case of the prosecution is that the deceased, who is the wife of the petitioner, and her family members, after attending a temple festival returned home on 05.07.2017. The next morning, i.e., on 06.07.2017, at around 1.00 a.m. it was found that the petitioner had stabbed his wife with a Kadapparai, causing her death.

3. The case is based on circumstantial evidence premised on the evidence of the son of the petitioner, PW2 and father of the deceased, PW1. The learned Judge notes that the prosecution rests its case solely on circumstantial evidence and in such a case, settled law demands that the circumstances from which the conclusion of guilt is drawn, must be fully and conclusively proved.

4. Based on the evidence of P.W.2, the child witness, the learned Judge concludes that the 'last seen theory' has been proved that there has been a complete chain of events put forth by the prosecution that would establish the guilt of the petitioner.



5. Mr.P.Kannan, learned counsel for the petitioner would assail the judgment on the ground that, being circumstantial evidence, the prosecution ought to have established an unbroken chain of events pointing conclusively, only to the accused. In the present case, they have not done so. Moreover, there is nothing to indicate that the deceased was last seen with the accused. The petitioner has been incarcerated since the date of conviction for upwards of 2 years and he would hence pray for suspension of sentence.

6. We have heard learned counsel for the petitioner and the learned Additional Public Prosecutor.

7. The case of the prosecution, admittedly, rests wholly on circumstantial evidence which requires an unbroken chain of events pointing solely to the guilt of the accused. The evidence indicates prima facie, that the petitioner, his deceased wife and their two children, had attended a temple festival, returning home on 05.07.2017. P.W.2 had deposed that they had gone to the terrace of their house together on the night of 05.07.2017 and when it started drizzling, they came down. Thereafter, on the morning of 06.07.2017, he found his mother lying dead on the footsteps of their house.

8. There is, prima facie, in our view, no support for the last seen theory as it appears to us from the evidence that the deceased and the accused were together with their children. That apart, the fact that P.W.2 is not an eye witness but only found his mother dead, results in a clear break in the chain of



events. The prosecution has, prima facie, not set out a conclusive and unbroken chain of events pointing to the guilt of the petitioner and we are, hence, inclined to suspend the sentence imposed on the petitioner.

9. Accordingly, this Criminal Miscellaneous Petition stands allowed and the sentence of imprisonment imposed on the petitioner vide judgment dated 08.12.2023 in S.C.No.301 of 2017 is suspended and the petitioner granted bail, on the following conditions:

- i. The petitioner shall execute a bond for a sum of Rs.25,000/-, each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Villupuram.
- ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court shall 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 in a position to so 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.

WEB COPY

(A.S.M.,J.) (S.M.,J.)

08-04-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

Note: Registry is directed to issue a copy of this order today.

SL

To

1. The State The Inspector of Police
Kandachipuram Police Station,
Villupuram District.
Crime No. 208/2017.
2. The Sessions Judge, Magalir Neethi Mandram
(Fast Track Mahila Court), Villupuram.
3. The Superintendent of Prisons, Central Prison,
Cuddalore.
4. The Public Prosecutor, High Court, Madras.



WEB COPY

CRL MP No. 4568 of 2



DR.ANITA SUMANTH J.

AND

SUNDER MOHAN J.

SL

CRL MP No. 4568 of 2026

AND

CRL A NO. 264 OF 2026

08-04-2026