



CRL MP Nos. 5605 and 5982 of 2026

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22-06-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

**CRL MP Nos. 5605 & 5982 of 2026
in Crl.A.No.347 & 288 of 2026**

G.Gajendran Alias Gaja
S/o.Gopal Reddy,
Balleripalli Village,
Thally Kothanur Post,
Denkanikottai Taluk,
Krishnagiri District.
Now confined at
Central Prison,
Vellore, Vellore District.

..Petitioner/A2

Vs

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

...Respondent(s)

Prayer in CRL MP No. 5605 of 2025: Criminal Miscellaneous Petition filed under Section 389(3) of Cr.P.C. r/w 430 (3) of BNSS, to suspend the sentence imposed on the petitioner by the Learned Additional District Judge, Hosur in SC.No.98 of 2022 by the judgment dated 31.07.2025 and enlarge the petitioner on bail pending disposal of the above appeal.



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CRL MP Nos. 5605 and 5982 of 2026

For Petitioner(s):

Mr.R.Muniyapparaj,
for Mr.Om Prakash V.

For Respondent(s):

Mr.M.M.I.Khaleel,
Government Advocate (Crl.Side)

CRL MP No. 5982 of 2026

S.Yadu Bushan Reddy
S/o.Sampangirama Reddy, No.4/8, Gurubarapalli
Village, Thodda Ubbanoor Post, Denkanikottai
Taluk, Krishnagiri District.

..Petitioner/A1

Vs

State by, Inspector of Police,
Thally Police Station,
In Cr.No.97 of 2021.

..Respondent(s)

Prayer in CRL MP No. 5982 of 2025: Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. r/w 430 (1) of BNSS, to suspend the sentence passed against the petitioner/appellant/accused no.1 in S.C.No. 98/2022 dt. 31.07.2025 on the file of the Learned Additional Sessions Judge, Hosur, Krishnagiri District and enlarge the petitioner on bail pending disposal of the Crl.A.288/2026

For Petitioner(s):

Mr.S.B.Viswanathan

For Respondent(s):

Mr. M.M.I. Khaleel,
Government Advocate (Crl.Side)



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CRL MP Nos. 5605 and 5982 of 2026

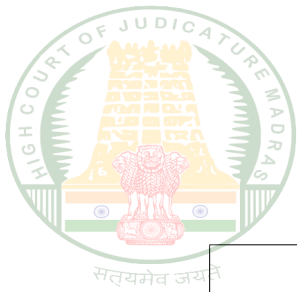
COMMON ORDER

(Order of the Court was made by Sunder Mohan J.)

These criminal miscellaneous petitions have been filed seeking to suspend the sentence imposed on the petitioners vide judgement and order dated 31.07.2025 passed in S.C.No.98 of 2022 on the file of the learned Additional Sessions Judge, Hosur, and to enlarge the petitioners on bail pending disposal of the appeals.

2. The petitioner in Crl.MP.No.5982 of 2026 and the petitioner in Crl.MP.No.5605 of 2026, who were arrayed as A1 and A2, respectively, in the above Sessions Case, were convicted by the trial Court for the offences under Sections 120B r/w 302, 294(b), 506(ii) (2 counts), 302 r/w 34 of IPC and Section 25(1-A) and 27(1) of Indian Arms Act and sentenced as follows:

Accused No.	Offence under Section	Sentence imposed
A1 & A2	120B r/w 302 IPC	Each of them to undergo life imprisonment and to pay a fine of Rs.1000/- in default to undergo imprisonment for one month.
	294(b) IPC	Each of them to undergo simple

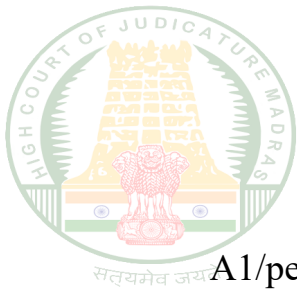


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		imprisonment for three months and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for fifteen days.
	506(ii) 2 counts IPC	Each of them to undergo simple imprisonment for one year and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for one month
	302 r/w 34 IPC	Each of them to undergo life imprisonment and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for one month.
	25(1-A) of Arms Act	Each of them to undergo simple imprisonment for seven years and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for one month.
	27(1) of Arms Act	Each of them to undergo simple imprisonment for three years and to pay a fine of Rs.1000/- in default to undergo imprisonment for one month.
The sentences were directed to run concurrently.		

3. It is the case of the prosecution that on account of prior enmity, A1 and A2 went to the house of the deceased and A1 shot him dead with his country-made gun and thus, committed the aforesaid offences.

4. Mr.Muniyapparaj, learned counsel for A2/petitioner in Crl.MP.No.5605 of 2026 and Mr.S.B.Viswanathan, learned counsel for



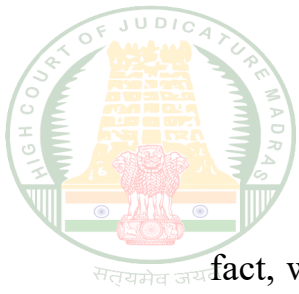
CRL MP Nos. 5605 and 5982 of 2026

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A1/petitioner in Crl.MP.No.5982 of 2026, would submit that all the eyewitnesses turned hostile; that the trial Court had relied upon Section 164 Cr.P.C., statement of these witnesses, which is not substantive to hold the petitioners guilty of the offences; that the recovery of the gun from A1 also cannot be believed as PW8 and PW9, turned hostile and PW10, the Village Administrative Officer had stated that when he went to the place near the car in which the gun was found, policemen and A2 were present; that his version is contrary to the evidence of the prosecution that A2 was arrested subsequently and hence, prayed for suspension of sentence to the petitioners.

5. Heard Mr.M.M.I.Khaleel, learned Government Advocate (Crl. Side), who would submit that the petitioners have bad antecedents; that the trial Court had rightly held the accused guilty of the offences and therefore, prayed for dismissal of the petitions.

6. As submitted by the learned counsel for the petitioners, we find on perusal of evidence of PW1 to PW5, who were examined as eyewitnesses, that none of them had supported the prosecution case. In



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fact, when the witnesses were originally examined in chief, their Section 164 Cr.P.C. statements were not marked through them. Two years after the cross-examination was conducted and just a few days before the judgment, the witnesses were recalled by the prosecution and examined for the purpose of marking the Section 164 Cr.P.C. statements. Though they have admitted their signatures in the Section 164 Cr.P.C. statements, they had denied the knowledge of the contents of the said statement.

7. We are of the view that the trial Court had erred in relying upon the Section 164 Cr.P.C. statements, to hold the petitioners guilty of the offences. It is needless to say that such statements can be used only to corroborate or contradict the witness in Court.

8. That apart, we find *prima facie* that there is a serious doubt with regard to seizure of the country-made gun from A1. PW8 and PW9, the recovery mahazar witnesses turned hostile. PW10, the Village Administrative Officer, the other witness for the recovery would state that the policemen were present at the spot along with A2, when he went there. Therefore, the recovery of the gun from A1 is highly doubtful.



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9. For the aforesaid reasons, we are of the view that the petitioners have made out a case for grant of suspension of sentence. The petitioners are in custody from the date of judgment i.e., 31.07.2025 and the appeals are not likely to be taken up in the near future. Hence, we are inclined to grant the relief of suspension of sentence to the petitioners herein.

10. Accordingly, these criminal miscellaneous petitions stand **allowed** and the sentences imposed on the petitioners are suspended on the following conditions:

- (i) Each of the petitioners shall execute a bond for a sum of Rs.25,000/-, with two independent sureties, each for a like sum to the satisfaction of the learned Additional Sessions Judge, Hosur, Krishnagiri District.
- (ii) The petitioners 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 petitioners shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the



WEB COPY



CRL MP Nos. 5605 and 5982 of 2026

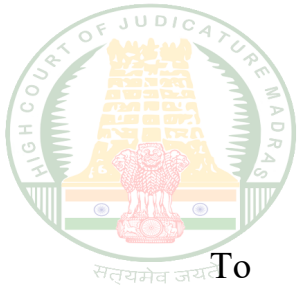
disposal of the appeal and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of their absence, as directed by the trial Court.

(A.S.M.,J.) (S.M.,J.)
22-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

Issue order copy today

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CRL MP Nos. 5605 and 5982 of 2026

To

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1. The Additional Sessions Judge,
Hosur, Krishnagiri District.
2. The Inspector of Police,
Thally Police Station,
Hosur District.
3. The Superintendent of Prisons,
Central Prison, Salem.
4. The Superintendent of Prisons,
Central Prison, Vellore.
5. The Public Prosecutor,
High Court, Madras.



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AND
SUNDER MOHAN, J.**

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Page 10 of 10