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CRL.O.P.No.8325 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2026

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.8325 of 2026

Thawlath Nish F/34,
W/o.Mohammed Ali,
Deivanai Nagar, Thirupalathurai,
Kumbakonam, Thanjur District.

... Petitioner

vs.

The State Rep By,
The Sub-Inspector of Police,
G-3, Kilpauk Police Station,
Chennai District.

... Respondent

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and set aside in Crl.M.P.No.2711 of 2026 dated 17.03.2026 on the file of learned IV Additional Sessions Court, Chennai.

For Petitioner : Mr.P.Muthamizh Selvakumar

For Respondent : Mr.Leonard Arul Joseph Selvam,
Additional Public Prosecutor



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ORDER

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The petitioner was convicted by the learned II Metropolitan Magistrate, Egmore, Chennai (trial Court) in C.C.No.2470 of 2021 dated 05.03.2024 and sentenced to undergo two years Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default to undergo three months Simple Imprisonment for offence under Section 381 IPC. Challenging the same, the petitioner preferred an appeal before the learned IV Additional Sessions Judge, Chennai (lower appellate Court) in Crl.A.No.373 of 2026 and also filed a petition for suspension of sentence in Crl.M.P.No.2711 of 2026 in Crl.A.No.373 of 2026. The lower appellate Court by impugned order dated 17.03.2026 dismissed the petition, against which, the present Criminal Original Petition is filed.

2.Learned counsel for the petitioner submitted that on the date of the trial Court judgment *i.e.*, on 05.03.2024, the petitioner failed to appear before the trial Court, hence, the trial Court recorded the petitioner's absence and rendered judgment in absentia. He further submitted that the petitioner is a native of Kumbakonam and is residing there with her family. Due to her ill-health as well as her husband's ill-health, she was



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unable to contact the trial Court Advocate, hence, she lost track of the case. For that reason, she could not appear before the trial Court. Added to it, the trial Court Advocate failed to inform the petitioner about the judgment and consequently, the petitioner was unaware of the conviction. This being so, based on the conviction warrant of the trial Court, the petitioner arrested on 27.12.2025 and confined in Central Special Prison for Women, Puzhal. Thereafter, the petitioner made arrangements, filed appeal before the lower appellate Court with a delay petition in Crl.M.P.No.996 of 2026 in Crl.A.No.373 of 2026. Finding the delay is reasonable, the lower appellate Court condoned the delay on 06.03.2026 on condition that the petitioner shall remit a sum of Rs.5,000/- to the District Court Mediation Centre, Chennai. On 10.03.2026, the cost of Rs.5,000/- paid, thereafter, the appeal numbered in Crl.A.No.373 of 2026 and petitioner for suspension of sentence filed. The petitioner for suspension of sentence was dismissed by the lower appellate Court rejecting the petitioner's contention that there was lack of communication from the trial Court Advocate and she was unaware of the judgment. Further the lower appellate Court observed that the petitioner was evading the process of law, hence, dismissed the petition for suspension



of sentence.

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3.Learned counsel further submitted that admitted position is that the petitioner was sentenced to maximum punishment of two years and she was arrested on 27.12.2025. The petitioner raised substantial grounds in the appeal and has a fair chance in succeeding the appeal. The petitioner has a son and ailing husband to take care of, and due to her confinement, she has put to untold sufferings and hardship. The petitioner is a permanent resident of Kumbakonam and is ready to offer sureties and abide by any condition of this Court.

4.Learned Additional Public Prosecutor strongly opposed the petitioner's submissions and submitted that the petitioner was employed as maid in the house of the defacto complainant who was running a hospital and she had been in employment for four years. On 25.02.2020, the defacto complainant had gone to take a bath, after coming out, she found her diamond studs, gold bangles, gold ring and ear studs valued around Rs.15 lakhs found missing, hence, she lodged a complaint. The petitioner absconded and was later secured and on her confession, it



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revealed that she was committing theft for sometime and jewels pledged with Papanasam Benefit Fund. Further, out of the money, she purchased new gold jewels from Ashika Gold Palace, Kumabakonam. Some portion of the gold were seized and the petitioner's presence in Papanasam Benefit Fund, Kumbakonam recorded in CCTV camera. The CCTV camera installed in the defacto complainant's residence collected from the technician. In this case, PW1 to PW7 to examined and Exs.P1 to P14 marked and MO1 produced. PW2 is the Secretary of PW1, PW3 and PW4 are the witnesses for Observation Mahazar and Rough Sketch, PW5 is the employee of Papanasam Benefit Fund, Kumbakonam, PW6 is the Technician and PW7 is the Investigating Officer in this case. The trial Court, on the evidence and materials finding that the petitioner committed the offence, rightly convicted the petitioner.

5.He further submitted that the petitioner not participated in the trial and 317 petition frequently filed. Even the witnesses identified the petitioner through the admitted photographs available in the Court. Since the petitioner failed to appear on the date of pronouncement of judgment, the trial Court issued the conviction warrant and after a sustained search,



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she arrested in this case. If the petitioner is let out on bail, she will again abscond and the appeal will get stalled.

6.Considering the submissions and on perusal of the materials, it is seen that in this case, the petitioner was convicted by the trial Court by judgment dated 05.03.2024 in C.C.No.05.03.2024 and she was arrested on 27.12.2025 in Kumbakonam. The petitioner is a native of Kumbakonam and due to ill-health, both the petitioner and her husband are undergoing treatment and she is only taking care of her ailing husband.

7.It is to be noted that the trial Court Advocate ought to have ensured the presence of the petitioner before the trial Court, but not done so. Further, the arrest, seizure and recovery all done at Papanasam and Kumbakonam and the petitioner is a resident of Kumbakonam, is already known to the respondent Police, but the trial Court not insisted and ensured the presence of the petitioner.



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8.It is seen that the lower appellate Court considered the petitioner's explanation, condoned the delay and admitted the appeal. After condoning the delay, the lower appellate Court rejecting the petitioner's contention that she was not informed about the stage of trial, is not proper since the same was one of grounds for condonation of delay.

9.The petitioner is a permanent resident of Kumbakonam living with her family and she was on bail during trial. The petitioner raised substantial grounds in the appeal which needs consideration. It will take sometime for the appeal to be taken up for final hearing.

10.In view of the above, this Court is inclined to grant suspension of sentence till the disposal of Crl.A.No.373 of 2026 on the file of the lower appellate Court. Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioner by the trial Court in C.C.No.2470 of 2021 is suspended till the disposal of Crl.A.No.373 of 2026 on the file of the lower appellate Court and she is ordered to be enlarged on bail, on condition that she shall execute a bond for a sum of Rs.5,000/- (Rupees five thousand only) with two sureties, each for a



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likesum to the satisfaction of the lower appellate Court.

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11.Further, the petitioner shall appear before the lower appellate Court on the first working day of every English calender month commencing from May, 2026 at 10.30 a.m till the disposal of Crl.A.No.373 of 2026. If she is not able to appear before the lower appellate Court on that day, he shall make arrangement to file an application under Section 317 Cr.P.C., and shall appear on any other day in lieu of the date of her absence as directed by the lower appellate Court.

12.In the result, this Criminal Original Petition is allowed and the impugned order dated 17.03.2026 in Crl.M.P.No.2711 of 2026 in Crl.A.No.373 of 2026 passed by the learned IV Additional Sessions Judge, Chennai is set aside.

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Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No
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Note: Issue Order Copy on 10.04.2026.

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To

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1.The IV Additional Sessions Judge,
IV Additional Sessions Court, Chennai.

2.The Sub-Inspector of Police,
G-3, Kilpauk Police Station,
Chennai District.

3.The Public Prosecutor,
High Court, Madras.

Copy To:

The Central Special Prison for Women,
Puzhal.



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M.NIRMAL KUMAR, J.

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