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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2026

CORAM

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

AND

THE HON'BLE MR. JUSTICE B.KARTHIKEYAN

Crl.M.P.No.9395 of 2025
in Crl.A.No.434 of 2025

Vimalkumar ..Petitioner(s)

Vs

1. The Deputy Superintendent of Police,
   Namakkal Police SP Office,
   1st Floor, Tiruchengode Road,
   Namakkal – 637 003.

2. The State Rep. by,
   The Inspector of Police,
   Belukurichi Police Station,
   Cr.No.34/2018. ..Respondent(s)

PRAYER: Criminal Miscellaneous Petition is filed under Section 430 of the Bharatiya Nagarik Suraksha Sanhita, to suspend the sentence and conviction dated 04.03.2025 passed in S.C.No.248 of 2018 by the Special Court for SC and ST (PoA) Act Cases, Namakkal in the interests of justice and equity.

For Petitioner(s): Mr.K.K.Senthilvelan, Sr.Counsel
for Mr.J.Thomas Saran Singh

For Respondent(s): Mr. C.R.Malarvannan,
Additional Public Prosecutor

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ORDER

(Order made by A.D.JAGADISH CHANDIRA., J.)

This Criminal Miscellaneous Petition has been filed by the petitioner/appellant (A1) seeking suspension of the sentence imposed on him by the learned Sessions Judge, Special Court for Trial of Cases registered under SC and ST (PoA) Act, Namakkal, in S.C.No.248 of 2018, vide judgment dated 04.03.2025.

2. The brief facts of the case are as follows:

2.1. The *de facto* complainant, Kumar (PW1) and the deceased, RRP Suresh, were friends and were doing real estate business. The petitioner/appellant (A1) and A2, who are known to PW1 and the deceased, were cheated by them and in order to wreak vengeance against them, the accused planned together and conspired to do away with PW1 and the deceased. On 20.03.2018, at about 9.00 p.m., near the Vettukadu bus stop, the accused restrained PW1 and the deceased from proceeding further, sprayed chilly powder on them and attempted to attack PW1 (Kumar) and the deceased using veecharuval. PW1 (Kumar) warded off the attempt, sustaining an injury on his right thumb. However, the accused inflicted injuries on the deceased by indiscriminately attacking him all over his body with veecharuval, which caused his death.

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2.2. Based on the complaint lodged by PW1, (Kumar), a case in Crime No.34 of 2018 was registered for the offences under Sections 341, 323, 307 & 302 of IPC.

2.3. After completion of the investigation, the investigating officer filed a final report before the Judicial Magistrate Court, Rasipuram, which was numbered as P.R.C.No.14 of 2018. On appearance of the accused before the Court and on compliance with the provisions of Section 207 of Cr.P.C., the learned Magistrate committed the case to the Principal Sessions Court, Namakkal, where it was taken on file as S.C.No.248 of 2018.

2.4. Before the framing of charges, A2 passed away and therefore, the charges against him abated. After hearing the learned counsel on both sides, the trial Court framed charges against the petitioner/appellant(A1). During the initial questioning, the petitioner/appellant denied the charges and sought trial and thereafter, the case was made over to the file of the trial Court.

2.5. On the side of the prosecution, PW1 to PW37 were examined and Ex.P1 to Ex.P37 along with M.O.1 to M.O.14 were marked. On the side of the defence, neither any witness was examined nor any document was marked.

2.6. The trial Court, after hearing the arguments on both sides and considering the materials on record, found the petitioner/appellant guilty and convicted and sentenced him vide judgment dated 04.03.2025, as follows:-

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Under Section	*Sentence*
341 IPC	One month simple imprisonment and fine of Rs.500/-, in default, to undergo six months imprisonment.
307 IPC	10 years rigorous imprisonment and fine of Rs.1,000/-, in default, to undergo six months imprisonment.
302 IPC	Life imprisonment and fine of Rs.10,000/-, in default, to undergo six months imprisonment
The aforesaid sentences were ordered to run concurrently.	

2.7. Challenging the aforesaid judgment, the criminal appeal in Crl.A.No.434 of 2025 was filed along with the present application seeking suspension of sentence.

3. The submissions of the learned counsel appearing for the petitioner are as follows:

3.1. The wife of the deceased (PW4) claimed that one Boopathi (PW12) had informed her that Vimalkumar, Manivasagam and Kumar had jointly assaulted her husband/deceased, whereas, in his evidence, the said Boopathi (PW12) deposed that he was not aware of who had assaulted the deceased.

3.2. Though the wife of the deceased (PW4) stated that she got the above information at 9.15 p.m. on the alleged date of occurrence, the complaint was given only by PW1 (Kumar) at 6.00 a.m., on the next day, 21.03.2018.

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3.3. Even as per the evidence of the wife of the deceased (PW4) and the brother-in-law of the deceased (PW30), they had suspected PW1 (Kumar) to be one of the assailants.

3.4. Further, PW5, who is an eyewitness to the occurrence, deposed that he identified A2 and was not able to identity the other assailant. Further, he did not speak about the presence of any other person at the scene of occurrence. Hence, the presence of PW1 (Kumar) at the place of occurrence is highly doubtful.

3.5. Superadded, the injuries sustained by PW1 (Kumar) on his right thumb were only minor injuries and therefore, in such circumstances, the delay in giving the complaint creates a grave suspicion in the prosecution case.

3.6. Hence, the trial Court failed to take into consideration these contradictions and embellishments in the evidence of the witnesses.

3.7. The petitioner was on bail during the trial and he did not misuse the liberty granted to him. Further, the chance of the appeal being taken up for final hearing in the near future is very remote. The petitioner has been in custody from the date of his conviction i.e., since 04.03.2025 Hence, the sentence imposed on the petitioner may be suspended and he may be enlarged on bail.

4. The respondent police has filed a detailed counter affidavit.

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5. Learned Additional Public Prosecutor, relying on the counter, submitted that it is a case where due to previous enmity, the accused have waylaid PW1 (Kumar) and the deceased and have assaulted them indiscriminately with veecharuval, resulting in their sustaining injuries and the subsequent death of the deceased. He also submitted that the trial Court, after taking into consideration the oral and documentary evidence adduced by the prosecution, has rightly found the petitioner/appellant guilty and convicted him. Hence, he vehemently opposed for the grant of suspension of sentence.

6. Heard both sides and perused the materials available on record.

7. Having considered the facts and circumstances of the case, the submissions made by the learned counsel on either side and considering that there are several arguable points available in the criminal appeal, which is unlikely to be taken up for final hearing in the near future and also taking note of the period of incarceration already undergone by the petitioner/appellant, who has made out a *prima facie* case for grant of suspension of sentence, we find that there are considerable force in the submissions of the learned counsel for the petitioner/appellant. Furthermore, the presence of PW1 (Kumar) at the scene of occurrence seems to be doubtful. Hence, we are inclined to grant the reliefs of suspension of sentence and bail.

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8. Accordingly, this Criminal Miscellaneous Petition is allowed. Pending disposal of the appeal, the substantive sentence of imprisonment alone imposed on the petitioner is suspended and he is enlarged on bail, subject to the following conditions:-

(i) The petitioner shall execute a separate bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties, each for a like sum, to the satisfaction of the Special Court for Trial of Cases registered under SC and ST (PoA) Act, Namakkal;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judge may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(iii) The petitioner shall stay at Chennai and report before the Inspector of Police, Mylapore Police Station, Chennai, everyday at 10.30 a.m., until further orders.

(A.D.J.C.,J.) (B.K.,J.)
28-10-2026

Neutral Citation: Yes/No

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To

1. The Sessions Judge,
   Special Court for Trial of Cases registered under SC and ST (PoA) Act,
   Namakkal

2. The Deputy Superintendent of Police,
   Namakkal Police SP Office,
   1st Floor, Tiruchengode Road,
   Namakkal – 637 003.

3. The Inspector of Police,
   E1-Mylapore Police Station,
   Chennai.

4. The Inspector of Police,
   Belukurichi Police Station.

5. The Public Prosecutor,
   High Court of Madras.

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