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CRL MP Nos. 10035 of 2025 & 6164 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-06-2026

CORAM

THE HON'BLE DR.JUSTICE ANITA SUMANTH

AND

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL MP Nos. 10035 of 2025 & 6164 of 2026

in

CRL A Nos.488 of 2025 and 412 of 2026

Pasubathi
S/o.Babu,
TMC Colony,
Tirupattur Town and District.

..Petitioner/A3

Vs

The State Rep by, The Inspector of Police,
Tirupattur Taluk Police Station,
Tirupattur District.
Cr.No.610/2016.

..Respondent(s)

CRL MP No. 6164 of 2026

Rajesh
S/o.Muniraj,
Barathidasan Nagar,
Tirupattur Town and District.

..Petitioner/A2

Vs

State rep.by, The Inspector of Police,
Tirupattur Taluk Police Station,
Tirupattur District.
Cr.No.610/2016.

..Respondent(s)



CRL MP Nos. 10035 of 2025 & 6164 of 2026

Prayer in CRL MP No. 10035 of 2025: Criminal Miscellaneous Petition filed under Section 430 (1) of BNSS, to suspend the sentence imposed against the petitioner in SC No.57/2019 on the file of the Learned District and Sessions Judge, Tirupattur, Tirupattur District and set aside the Judgment dated 08-04-2025 and enlarge the petitioner on bail in Crl.A.No./2025.

Prayer in CRL MP No. 6164 of 2026: Criminal Miscellaneous Petition filed under Section 430 (1) of BNSS, to suspend the sentence imposed in the judgment dated 08.04.2025 S.C.No.57/2019 on the file of the learned District and Sessions Judge at Tirupattur on the Appellant and enlarge him on bail pending disposal of the Criminal Appeal, in exercise of powers under section 430(1) of the Bharatiya Nagarik Suraksha Sanhita, 2023.

For Petitioner(s):

in Crl.MP.10035/25

in Crl.MP.6164/26

Mr. V. Parthiban

Ms.Mumtaj Surya

For Respondent(s):

Mr. M.M.I.Khaleel

Government Advocate (Criminal Side)

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 08.04.2025 passed in S.C.No.57 of 2019 on the file of the



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learned District and Sessions Judge, Tirupattur, and to enlarge the petitioners on bail pending disposal of the appeals.

2. The petitioner in Crl.MP.No.10035 of 2025 and the petitioner in Crl.MP.No.6164 of 2026, who were arrayed as A3 and A2, respectively, in the above Sessions Case, were convicted by the trial Court for the offences under Sections 120B and 302 of the IPC and sentenced as follows:

Accused No.	Offence Section	under	Sentence imposed
A2 & A3	120B IPC		Each of them to undergo life imprisonment and to pay a fine of Rs.10,000/- in default to undergo simple imprisonment for two years.
	302 IPC		Each of them to undergo life imprisonment and to pay a fine of Rs.10,000/- in default to undergo simple imprisonment for two years.
The sentences were directed to run concurrently.			

3. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.Side) appearing for the respondent/State.

4. It is the case of the prosecution that A1 and the deceased had prior enmity and on account of the same, A1 decided to do away with the



deceased with the help of A2 to A7; that on 17.09.2016, at about 2.45 p.m., A1 to A3 had attacked the deceased Narayanan and the *de-facto* complainant (Purushothaman) with knives indiscriminately; and that the deceased succumbed to the injuries and the *de-facto* complainant sustained grievous injuries.

5. The learned counsel for the petitioners/A2 & A3 submitted that PW1 to PW3 were examined as eyewitness and the *de-facto* complainant died pending investigation after his statement was recorded under Section 164 of the Cr.P.C; that PW1 to PW3 turned hostile in the trial; that there is no other evidence to connect the petitioners with the crime; that the trial Court had relied upon the Section 164 Cr.P.C. statement of the *de-facto* complainant and the identification parade proceedings, in which he had identified the accused; and that since the learned trial Judge has committed a fundamental error in law by treating the Section 164 Cr.P.C. statement and identification proceedings as substantive evidence, the sentence imposed on the petitioners has to be suspended.

6. The learned Government Advocate (Crl.Side) fairly conceded that the three eyewitnesses examined by the prosecution turned hostile;



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and that the learned trial Judge has relied upon the Section 164 Cr.P.C.

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statement of the deceased *de-facto* complainant.

7. We have perused the records.

8. Admittedly, PW1 to PW3, who were examined as eyewitnesses turned hostile and apart from their evidence, no other evidence has been let in by the prosecution to prove the guilt of the accused. However, unfortunately, the learned trial Judge has relied upon the statement of the defacto complainant (since deceased) made under Section 164 Cr.P.C. and the identification parade proceedings held during investigation to hold the petitioners and the 1st accused (since deceased) as guilty of the offences, besides the circumstance of motive established against the 1st accused. To top it all, the learned trial Judge has also observed that those statements are corroborated by Section 161 Cr.P.C. statements of the witnesses.

9. The impugned judgment therefore suffers from a serious error in law and the petitioners have made out a *prima facie* case for grant of



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suspension of sentence and also considering the fact that the petitioners are is in custody from the date of judgment i.e., 08.04.2025 and the appeals are not likely to be taken up in the near future, 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 District and Sessions Judge, Tirupattur.
- (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 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



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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.)
18-06-2026

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

Issue order copy today.

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To

1. The District and Sessions Judge,
Tirupattur.

2. The Inspector of Police,
Tirupattur Taluk Police Station,
Tirupattur District.

3. The Superintendent of Prisons,
Central Prison, Vellore.

4. The Public Prosecutor,
High Court, Madras.



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**DR.ANITA SUMANTH J.
AND
SUNDER MOHAN J.**

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