



WEB COPY

CRL MP No. 9783 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-07-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL MP No. 9783 of 2026

IN

CRL A NO. 711 OF 2026

Kavaskar @ Aravind
S/o.Munusamy,
Old Street, Kandhadu Village,
Marakkanam Taluk,
Tindivanam, Villupuram district.

..Petitioner(s)

Vs

The State rep. by,
The Inspector of Police,
Marakkanam Police Station,
Tindivanam, Villupuram District.
Cr.No.421/2021.

..Respondent(s)

CRL A No. 711 of 2026

Kavaskar @ Aravind
S/o.Munusamy, Old Street, Kandhadu Village,
Marakkam Taluk, Tindivanam, Villupuram district.

..Petitioner(s)

Vs

The State rep.by,
The Inspector of Police, Marakkanam Police
Station, Tindivanam, Villupuram District.
Cr.No.421/2021.

..Respondent(s)

Prayer: Criminal Miscellaneous Petition filed under Section 430(2) of BNSS, 2023, praying to suspend the sentence of the order passed by the Additional Sessions Court, Tindivanam in S.C.No.45/2023 dated 15.04.2026 and enlarge the petitioner/appellant on bail till the disposal of the above appeal.



WEB COPY



For Petitioner(s):

Mr.P.Veeraraghavan

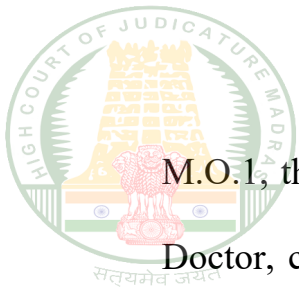
For Respondent(s):

Ms.Sharada Vivek,
Government Advocate (Crl. Side)

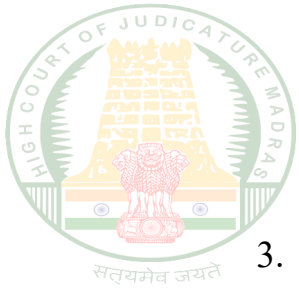
ORDER

The petitioner/Accused in S.C.No.45 of 2023 was convicted by the trial Court by the judgment dated 15.04.2026 for offences under Sections 341, 294(b), 326 and 307 of I.P.C. and sentenced to undergo one month simple imprisonment for the offence under Section 341 of I.P.C., sentenced to undergo three months simple imprisonment for the offence under Section 294(b) of I.P.C., sentenced to undergo five years rigorous imprisonment for the offence under Section 326 of I.P.C. and sentenced to undergo five years rigorous imprisonment for the offence under Section 307 of I.P.C., against which, the petitioner preferred the above appeal along with the instant miscellaneous petition seeking suspension of sentence and bail.

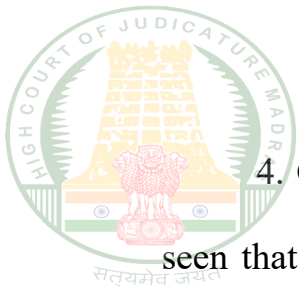
2. The learned counsel for the petitioner submitted that in this case, the petitioner and the victim were neighbours and there exists a property dispute between them. The petitioner is employed in Chennai. During the Covid-19 pandemic, the petitioner returned to his native place. At that time, the victim picked up a quarrel and abused the petitioner's mother, for which, the petitioner intervened, which resulted in a scuffle. But the same was projected as though the petitioner assaulted the victim using iron chain. He further submitted that



M.O.1, the material object recovered is iron pipe and not iron chain. PW7, the Doctor, confirmed that the victim informed him that he was assaulted using a chain. He further submitted that in this case the de facto complainant's father, died due to other reasons after registration of the case, hence he could not be examined. The statement of de facto complainant/son of the victim, is in the nature of hearsay. The eyewitnesses to the occurrence PW2 and PW3 not supported the case of the prosecution. PW4 is the son-in-law of the victim. Though he claimed to have been present at the scene of occurrence, neither PW2 nor PW3 spoken about his presence in the scene of occurrence. Hence, his presence is highly doubtful. PW5 and PW6 are the mahazar witnesses. PW5 not supported the case of the prosecution. He confirmed the material object was an iron pipe and not an iron chain. The Doctor/PW7, who examined the victim and issued Accident Register/Ex.P7, stated that the victim was referred to Government Hospital, Villupuram, where scan was taken and based on the treatment given in Government Hospital Villupuram, he gave his opinion. However, no Doctor, who treated the victim at Villupuram examined. From the Accident Register, it is seen that the injuries were primarily on the cheek and no medical records produced to substantiate the injuries to the skull and the back of the head. Thus, the trial Court had wrongly appreciated the evidence and convicted the petitioner.



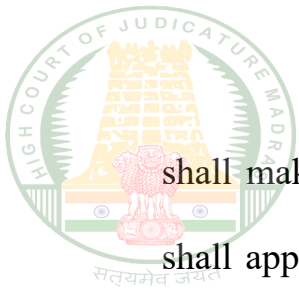
3. The learned Government Advocate (Crl. Side) strongly opposed the petitioner's contention and submitted that in this case there was a previous enmity between the victim, namely, Mahendran and the petitioner and due to the previous enmity, the petitioner restrained the victim Mahendran, who was riding in a two wheeler near the bridge, and assaulted him using iron pipe. The victim, who suffered grievous injuries, was rushed to Government Hospital, Madurantakam. PW7/Doctor examined the victim, thereafter sent intimation to the police and also referred the victim to Government Hospital, Mundiyaambakkam. PW1/de facto complainant is the son of victim, who lodged the complaint. PW2 and PW3 are the eyewitnesses, who saw the occurrence along with PW4. PW2 and PW3 are from the same village, hence, not supported the case of the prosecution. PW4 not clearly stated about the overt act of the petitioner. PW8/Sub Inspector of Police, visited the scene of occurrence, prepared observation mahazar and rough sketch and examined the witnesses PW5 and PW6 and recorded their statements. PW9/Inspector of Police, took up further investigation and filed charge sheet. She further submitted that during trial, on the side of the prosecution, PW1 to PW9 examined and Exs.P1 to P12 marked and M.O.1-Iron Pipe produced. She further submitted that in this case the evidence of PW4 and PW7/Doctor and medical records confirms that the petitioner assaulted the victim.



4. Considering the submissions made and on perusal of the material it is seen that the projected eyewitnesses PW2 and PW3 not supported the case of the prosecution. PW1 states that he was informed about the incident. PW4/son-in-law though states that he was present at the scene of occurrence, no witnesses stated about his presence. The Doctor/PW7, who examined the victim, confirms that it was informed by the victim that he was assaulted using iron chain but the seized article is iron pipe. The injuries are on non vital parts. In this case, the victim died due to some other reason, even before his examination as witness. Hence, the conviction of the petitioner needs re-consideration. Further, it is a statutory appeal and the appeal is not likely to be taken up in the near future, hence, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

5. Accordingly, the substantive sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the appeal and he is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

6. Further, the petitioner shall appear before the Trial Court once in three months at 10.30 a.m. on the first working day of the month, until the disposal of the appeal and if he is not able to appear before the Trial Court on that day, he



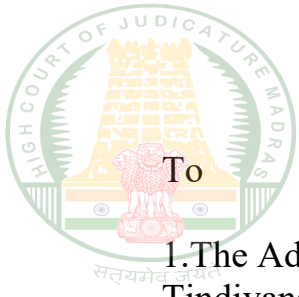
shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.

7. Accordingly, this Criminal Miscellaneous Petition is ordered.

01-07-2026

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

Note: Issue order copy on 02.07.2026



To

1. The Additional Sessions Judge,
Tindivanam.

2. The Inspector of Police,
Marakkanam Police Station,
Tindivanam,
Villupuram District.

3. The Superintendent of Prison,
Central Prison, Cuddalore.

4. The Public Prosecutor,
High Court, Madras.

WEB COPY



WEB COPY

CRL MP No. 9783 of 2



M.NIRMAL KUMAR J.

RSI

**CRL MP No. 9783 of 2026
IN
CRL A NO. 711 OF 2026**

01-07-2026