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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-11-2026

CORAM

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

AND

THE HON'BLE MR. JUSTICE B.KARTHIKEYAN

Crl.M.P.No.15049 of 2025
in Crl.A.No.1164 of 2025

Eshwaran @ Thoppuran ..Petitioner(s)

Vs

The State rep. By,
The Inspector of Police,
Bommidi Police Station,
Dharmapuri District.
Crime No.137/2022 ..Respondent(s)

PRAYER: Criminal Miscellaneous Petition is filed under Section 389 (1) r/w 439 of Cr.P.C., to suspend the sentence of imprisonment imposed in the judgment dated 14.12.2023 made in S.C.No.9 of 2023 on the file of the Additional District and Sessions Court, Dharmapuri and enlarge the petitioner on bail pending disposal of the above criminal appeal.

For Petitioner(s) : Mr.K.Sudhakar

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

ORDER

(Made by A.D.JAGADISH CHANDIRA J.)

This Criminal Miscellaneous Petition has been filed by the petitioner/accused seeking suspension of the sentence imposed on him by the

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learned Additional District and Sessions Judge, Dharmapuri, in S.C.No.9 of 2023, vide judgment dated 14.12.2023.

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

2.1. The deceased had developed an illegal intimacy with the second wife of the petitioner/accused and despite the warning given by the petitioner/accused, they continued their relationship. Later, taking advantage of the arrest of the petitioner/accused in another case, the deceased eloped with the wife of the petitioner/accused and started living together. Further, the deceased used to tease the petitioner/accused whenever he happened to see him.

2.2. While so, on 10.07.2022, at a temple festival, due to the said enmity, the petitioner/accused stabbed the deceased with a knife on his stomach, as a result of which, the deceased sustained severe injuries. Thereafter, the deceased was taken to hospital, however, he succumbed to the injuries without responding to treatment.

2.3. Based on the complaint lodged by the wife of the deceased/PW1, a case in Crime No.137 of 2022 was registered by the respondent police for the offence under Section 302 of IPC. After completion of the investigation, the Investigating Officer filed a final report against the petitioner/accused before the learned Judicial Magistrate, Pappireddipatti and the same was taken on file in P.R.C.No.1 of 2023.

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2.4. On appearance of the petitioner/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 District and Sessions Court, Dharmapuri, where it was numbered as S.C.No.9 of 2023 and subsequently, the same was made over to the trial Court.

2.5. After hearing the learned counsel on both sides, charges were framed against the petitioner/accused. During the initial questioning in respect of the charges, the petitioner/accused denied the same and sought to be tried.

2.6. On the side of the prosecution, PW1 to PW16 were examined and Exs.P1 to A33 and M.O.1 to M.O.7 were marked. On the side of the defence, neither any witness was examined nor any document was marked.

2.7. The trial Court, after hearing the arguments on both sides and considering the materials on record, found the petitioner/accused guilty and convicted and sentenced him vide judgment dated 14.12.2023, as follows:-

Under Section	***Sentence***
302 IPC	Life Imprisonment and fine of Rs.5,000/- and in default to undergo two years R.I.

2.8. Assailing the judgment of conviction and sentence, the criminal appeal has been filed along with the present application in Crl.M.P.No.15049 of 2025 seeking suspension of sentence and bail.

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

3.1. PW3 is the brother of PW1, the wife of the deceased. However, PW1 has not spoken about the presence of PW3 at the scene of occurrence in her complaint. Therefore, though PW3 and PW6 are projected as eyewitnesses to the occurrence, the presence of PW3 is highly doubtful.

3.2. Even as per the prosecution, the petitioner/accused is said to have nurtured enmity against the deceased since the previous day, when the deceased teased the petitioner/accused, resulting in a sustained provocation.

3.3. The trial Court failed to take into consideration the contradictions and embellishments in the evidence of the prosecution witnesses.

3.4. The petitioner/appellant is suffering from severe diabetes and his right big toe has been removed. It is also stated by the Assistant Surgeon, Central Prison Hospital, Salem, that the petitioner is diagnosed with mild atheromatous vessel wall thickening with biphasic flow, which requires immediate treatment.

3.5. The petitioner/appellant has been in custody since the date of judgment, i.e., from 14.12.2023. Hence, the sentence imposed on the petitioner/accused 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 the trial Court, after taking into consideration the oral and documentary evidence adduced by the prosecution, has rightly found the petitioner/accused 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. This Court has considered the facts and circumstances of the case as well as the submissions made by the learned counsel on either side. Taking note of the fact that there are several arguable points available in the criminal appeal and considering the medical condition of the petitioner/accused, this Court is inclined to grant the reliefs of suspension of sentence and bail.

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

(i) The petitioner/accused shall execute a 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 learned Additional District and Sessions Judge, Dharmapuri;

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(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; and

(iii) The petitioner shall appear before the trial Court on the first working day of every English calendar month at 10.30 a.m., until further orders.

(A.D.J.C.,J.) (B.K.,J.)
10-11-2026

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To

1. The Additional District And Sessions Judge,
   Dharmapuri.

2. The Inspector of Police,
   Bommidi Police Station,
   Dharmapuri District.

3. The Superintendent,
   Central Prison,
   Salem.

4. The Public Prosecutor,
   High Court of Madras.

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AND
B.KARTHIKEYAN, J.

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