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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2026

CORAM

THE HON'BLE MR.JUSTICE SHAMIM AHMED

CRL MP No. 13250 of 2026
IN
CRL RC NO. 1525 OF 2026

K. Jayakumar

..Petitioner(s)

Vs

1. State Rep by its, Inspector of Police,
W-26, AWPS,
Ashok Nagar, Chennai 600 083.
2. D. Kalaivani,
D/o.M. Dayalan
No.29/16, F2, Vignesh Villa Aprt.
Sampangi Street, West Mambalam,
Chennai-33
(R2 impleaded as per the order of this
court made in Crl.RC.1525/2026
vide order dt.25.07.2026)

..Respondent(s)

Prayer in Crl.M.P.No.13250 of 2026:- This Criminal Miscellaneous Petition has been filed, under Section 438 of Cr.P.C., praying to suspend the sentence dated 03.08.2022 made in C.C.No.12347 of 2018 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai and confirmed by the judgment dated 05.06.2026 in Crl.A.No.345 of 2022 on the file of the IV Addl. City Civil Court, Chennai and enlarge the petitioner on bail pending disposal of the above Criminal Revision Petition.

Prayer in Crl.R.C.No.1525 of 2026: To call for the records and set aside the judgment dated 05.06.2026 passed in Crl.A.No.345 of 2022 on the file of the learned IV Addl. City Civil Court, Chennai, confirming the judgment dated 03.08.2022 made in C.C.No.12347 of 2018 on the file of the XVII Metropolitan

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Magistrate Court, Saidapet, Chennai and

For Petitioner(s): Mr.K. Jayakumar,
Party in person

For Respondent(s): Mr.M.Dinesh,
Govt. Advocate (crl.side) for R1
Mrs.Kalaivani
Party in person

ORDER

This Criminal Miscellaneous Petition has been filed, by the Revision Petitioner, praying to suspend the sentence dated 03.08.2022 made in C.C.No.12347 of 2018 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai and confirmed by the judgment dated 05.06.2026 in Crl.A.No.345 of 2022 on the file of the IV Addl. City Civil Court, Chennai and enlarge the Revision Petitioner on bail pending disposal of the above Criminal Revision Petition.

2.By the impugned judgement of conviction and sentence and order of the Trial Court, the Revision Petitioner was convicted for the offence punishable under Section 498-A of IPC and sentenced to undergo Rigorous Imprisonment for a period of two years and to pay the compensation of Rs.5,00,000/-, in default, to undergo Simple Imprisonment for nine months. The impugned judgement of conviction and sentence and order of the Trial Court was confirmed by the lower appellate Court, by its impugned judgement of

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conviction and sentence and order dated 05.06.2026.

3.Challenging the above said judgement of conviction and sentence and order, the Revision Petitioner has filed the above Criminal Revision Petition along with the instant Criminal Miscellaneous Petition, seeking suspension of sentence and bail pending disposal of the Criminal Revision.

4.This Court heard Mr.K. Jayakumar- Revision Petitioner/party in person and Mr. M. Dinesh, learned Government Advocate (Criminal Side) for the 1st Respondent and Mrs. Kalaivani - 2nd respondent/party in person and considered their submissions and also perused materials placed before this Court.

5. The case of the prosecution is that the petitioner and the 2nd respondent got married on 27.08.2017 and after marriage the revision petitioner started to demand Rs.10 lakhs as dowry and also compelled the 2nd respondent to avail loan from banks as she was employed. Out of the wedlock, a child was born to them. The revision petitioner suspected the feudality of the 2nd respondent stating that the child was not born to him. He also stated her that on receipt of Rs.10 lakhs, he would accept that he was responsible for 2nd respondent's pregnancy. Thus he humiliated the defacto complainant by questioning her chastity and also questioned the paternity of the child and also demanded dowry from her. Further he abused the 2nd respondent and her relatives in a filthy

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language. Hence, she lodged a complaint in Cr.No.12/2018 before the respondent police on the ground of cruelty. On filing charge sheet against the accused before the XVII Metropolitan Magistrate Court, Saidapet, Chennai, the same was taken cognizance in C.C.No.12347of 2018.

6. The Revision petitioner/party in person submitted that the Courts below have failed to consider material documents placed on record by the Revision Petitioner including the RTI replies issued by Government authorities which was directly relate to the authenticity and existence of the alleged DNA test process. The judgment of the Courts below do not reflect consideration of the subsequent developments and documents brought on record during the pendency of the proceedings and therefore suffer from non-application of mind. The findings rendered are contrary to the material available on record and are liable to be set aside. The Revision Petitioner has submitted that in the light of these material infirmities and major contradictions, it was argued that the judgments passed by both the Courts below were based on surmises and conjectures without considering the entire crystal part of the evidence on record.

7.It is further argued that due to pendency of the criminal cases before this High Court, there is a blinking chance that in the near future, this Criminal Revision Case will be finally heard and decided. It is further submitted that there are arguable points in this Criminal Revision Case and the Revision

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Petitioner has a fair chance of success in this Criminal Revision Case. Thus, the Revision Petitioner has prayed for suspension of sentence and bail, till the disposal of this Criminal Revision Petition. It was further submitted that during the trial and the subsequent appeal, the Revision Petitioner was on bail.

8. Mr.M.Dinesh, learned Govt. Advocate (crl.side) appearing for the 1st respondent submitted that the prosecution, in order to prove the case of prosecution, has examined PW1 to PW8 and marked exhibits Ex,06. The DNA analysis report clearly states that the petitioner is the biological father of the child. The report of the appropriate authority was duly considered by both the courts below in a proper perspectively and the same was rightly considered and upheld by the Lower Appellate Court. The prosecution has proved its case beyond all reasonable doubts. Hence, accepting the prosecution case, both the Courts below imposed punishment on the revision petitioner. Stating so, he argued that there is no perversity, illegality and impropriety in the concurrent findings of the courts below.

9.The learned Government Advocate (Criminal Side) for the 1st Respondent has opposed the argument advanced by the Revision Petitioner and submits that the judgements passed by the Courts below are as per the law, after considering the entire evidence and thus, the relief sought by the Revision Petitioner for grant of suspension of sentence and bail at this stage, be refused

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by this Court. Hence, he prayed for dismissal of this miscellaneous petition.

10. Mrs. Kalaivani, the 2nd Respondent/party-in-person, wife of the Revision Petitioner submitted that the 2nd respondent and the revision petitioner was in intimate interactions after the marriage and thus the marriage was fully consummated and they lived together after the marriage. As per the results of the DNA report the Revision Petitioner is the biological father of the child born to the 2nd respondent and based on the results of the DNA report the Family Court pronounced that the petitioner is the biological father of the 2nd respondent's son. The trial court, after considering the evidence on record, rightly passed the order imposing conviction and sentence on the revision petitioner and the same was upheld by the lower appellate court.

11. She also submitted that an amount of more than Rs.20 lakhs is pending to be paid regarding arrears of maintenance against the revision petitioner and she submitted that the relief sought by the Revision Petitioner for grant of suspension of sentence and bail may be refused and prayed for dismissal of this miscellaneous petition.

12.In reply to the arguments advanced by the learned Govt. Advocate (crl.side) for the 1st respondent and also by the Respondent No.2, the Revision Petitioner made several other submissions in order to demonstrate the falsity of

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the allegations made against the Revision Petitioner have also been placed forth before this Court. The circumstances which, according to the Revision Petitioner , led to the erroneous conclusion of criminal negligence have also been touched upon at length. It has been assured on behalf of the Revision Petitioner that he is ready to cooperate with the process of law and shall faithfully make himself available before the Court, whenever required and is also ready to accept all the conditions, which the Court may deem fit to impose upon him. The Revision Petitioner undertakes that in case he is released on bail and granted suspension of sentence, he will not misuse the liberty of bail and will cooperate in disposal of Criminal Revision Case.

13.Considering the arguments advanced by the Revision Petitioner in person as well as the learned Govt. Advocate (Criminal Side) for the 1st Respondent and the 2nd respondent/party in person, this Court is of the view that the Trial Court has failed to properly appreciate the evidence on record and the judgment was passed without adequately considering the entire materials placed before it. It is also noted that during the Trial and during the pendency of the appeal, the Revision Petitioner was on bail.

14.Further, it is observed that when the accused have been under threat of incarceration and when there are points in the Criminal Revision, which favour the accused, then the Courts should not shy from granting suspension of

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sentence, as the liberty of the individual would be at stake, if the revision results in acquittal at a later point of time. In this regard, the decision of the Hon'ble Supreme Court of India, in the case of ***Rabi Prakash Vs. The State of Odisha reported in 2023 Live Law (SC) 533*** is of relevance.

15.The Revision Petitioner has raised substantial grounds in the Criminal Revision, which require detailed appraisal. Further, the Revision is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the Revision Petitioner is entitled to the relief of suspension of sentence and bail during the pendency of the present Criminal Revision Case.

16. The petitioner has not filed any petition for exemption from surrender

17.Accordingly, pending the Criminal Revision Case, the relief of suspension of sentence and bail is granted to the Revision Petitioner on the following conditions:-

i. The Revision Petitioner shall surrender before the XVII Metropolitan Magistrate Court, Saidapet, Chennai within a period **three weeks** from today and on such surrender, the Revision Petitioner is ordered to be released on bail on the same day by the learned trial court, on his executing a personal bond, along with two sureties for a sum of Rs.10,000/- (Rupees ten thousand only)

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each, subject to furnishing an undertaking that he will co-operate in the hearing of the present Criminal Revision case.

ii. The Revision Petitioner and sureties shall affix their Photographs and Left Thumb Impression in the bond and the above said Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity.

iii. The Revision Petitioner shall appear before the XVII Metropolitan Magistrate Court, Saidapet, Chennai once in every month, ie., on 1st working day of every month commencing from the month of November 2026 at 10.30 a.m., until further orders.

iv. The Revision Petitioner shall pay 50% of the compensation amount by way of bank draft to the 2nd respondent /wife Kalaivani within a period of **six weeks** from today.

v. On acceptance of bail bonds and sureties, the Trial Court shall transmit photostat copies thereof to this Court for being kept on records of this Criminal Revision case.

18. Failure to comply with any of the above conditions, the suspension of sentence and bail granted to the Revision Petitioner shall stand automatically

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cancelled.

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19.With the above directions and observation, this Criminal Miscellaneous Petition No.13250 of 2026 is disposed of accordingly.

28.10.2026

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

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To

1. The Inspector of Police,
W-26, AWPS,
Ashok Nagar, Chennai 600 083.

2. The XVII Metropolitan Magistrate, Saidapet, Chennai

3. The IV Addl. City Civil Court, Chennai

4. Public Prosecutor,Madras High Court.

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SHAMIM AHMED, J.

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