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CRL.M.P.(MD) No. 578 of 2026
BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2026

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THE HONOURABLE MRS JUSTICE N. MALA

CRL MP(MD) No. 578 of 2026

IN CRL A(MD) No. 41 of 2026

1.Vadivel
2.Thangamalai
3.Suresh Pandi

...Petitioners/Appellants/A1 to A3

Vs.

1.The State of Tamil Nadu,
rep.by its Inspector of Police,
T.Kallupatti Police Station,
Madurai District
(In Crime No. 262/2021)

Respondent/Respondent/Complainant

For Petitioners :

Mr.D.S.Haroon Rasheed

For Respondent : Mr.K.Sanjai Gandhi

Government Advocate (Crl.side)

Prayer: This petition is filed under Section 430(1) of BNSS/under Section 389(1) Cr.P.C to suspend the sentence imposed in judgment dated 29.12.2025 made in Special S.C.No.38 of 2024 on the file of the Special District Judge to deal with the Cases of Offences in Contravention of the Provisions of the Mines and Minerals (D & R) Act, 1957, Madurai, and enlarge the petitioners on bail pending disposal of the main appeal.



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ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioners by the learned Special District Judge to deal with the Cases of Offences in Contravention of the Provisions of the Mines and Minerals (D & R) Act, 1957, Madurai, in Special S.C.No.38 of 2024 dated 29.12.2025 and enlarge them on bail pending disposal of the appeal.

2. The case of the prosecution is that the petitioners/accused 1 to 3 had stolen 3 units of gravel sand in Ashok Leyland Tipper Lorry bearing Reg.No. TN-47-AT-5386 from Karungasoorani Stream near Vaiyur to Silarpatti Road. Subsequently, on 22.09.2021 at 12.00 noon, the petitioners had transported the gravel sand for sale near N.Muthulingapuram Krishnan Kovil on T.Kallupatti-Virudhunagar Road. Based on the complaint, FIR was registered in Crime No. 262 of 2021 for the offences punishable under Section 379 IPC and Section 4(1) (a-A) r/w 21(1) MMDR Act. After completion of investigation, charge sheet was filed and the same was taken on file by the learned District Munsif-cum-Judicial Magistrate, Periyaur, in PRC.No.98/2022. Thereafter, the case was transferred to the file of the Special District Judge to deal with the Cases of

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Offences in Contravention of the Provisions of the Mines and Minerals (D & R)

Act, 1957, Madurai, and numbered as Special S.C.No.38 of 2024.

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3. During trial, the prosecution examined 4 witnesses as P.W.1 to P.W.4, exhibited 5 documents as Ex.P.1 to Ex.P.5. One material object was marked as M.O.1. On the side of the defence, no witness was examined and no document was marked.

4. The learned Special District Judge to deal with the Cases of Offences in Contravention of the Provisions of the Mines and Minerals (D & R) Act, 1957, Madurai, upon considering the evidence, both oral and documentary and on hearing the arguments on both sides, passed the impugned judgment in Special S.C.No.38 of 2024 dated 29.12.2025, convicting the petitioners/accused 1 to 3 and sentencing them to undergo three years rigorous imprisonment for the offence under Section 379 IPC with a fine of Rs1,000/- each, in default, to undergo rigorous imprisonment for a period of two months. Further, it was ordered that the period of judicial custody already undergone by the accused 1 to 3 shall be set off under Section 428 Cr.P.C and the period of imprisonment shall run concurrently.



5. Challenging the above said conviction and sentence, the petitioners have preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

6. The respondent filed a counter affidavit, stating *inter alia* that all the three accused were apprehended at the spot along with the vehicle containing stolen sand and therefore, the trial court, based on cogent evidence, lawful seizure, corroborated testimony of official witnesses, passed a detailed and reasoned judgment convicting and sentencing the accused. The respondent stated that the application lacked merits and deserved to be dismissed.

7. The learned counsel appearing for the petitioners submitted that no intimation was given to the revenue immediately after the alleged occurrence and that the vehicle was produced before the Tahsildar, only after 30 days of the alleged occurrence. The learned counsel further submitted that even though the trial court, noted the aforesaid lapse, it rejected the same by merely stating that it had no impact on the case. The learned counsel submitted that the delay in reporting to the revenue immediately after the alleged occurrence was fatal to the prosecution's case, since it failed to establish beyond doubt that the sand was recovered from the alleged vehicle on the date of the alleged occurrence. Hence, the learned counsel prayed for suspension of sentence to the petitioners.



8. The learned Government Advocate (Crl.side) placing reliance on the counter, submitted that the judgment of conviction and sentence passed by the trial court did not warrant interference by this Court. The learned Government Advocate (Crl.side) submitted that this petition was vexatious and liable to be rejected.

9. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

10. From a bare perusal of the trial court judgment, it is seen that though the trial court noted that no intimation was given to the revenue immediately after the incident, without assigning any reasons, it overlooked the lapse by merely stating that it had no impact on the case. Under the circumstances, this Court finds that a *prima facie* case and an arguable point is made out by the learned counsel for the petitioners in the appeal. Further, the criminal appeal is not likely to be taken up for final hearing in the near future. Hence, this Court is of the considered view that the petitioners herein are entitled for the relief of suspension of sentence.

11. Accordingly, the Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the



appeal with the following directions:

(i) the petitioners are directed to be enlarged on bail on condition that each of the petitioners shall execute a bond for a sum of Rs.5,000/- (Rupees Five Thousand only) with two sureties, within a period of 10 days from the date of receipt of a copy of this order, each for a like sum to the satisfaction of the Special District Judge to deal with the Cases of Offences in Contravention of the Provisions of the Mines and Minerals (D & R) Act, 1957, Madurai;

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iii) The petitioners shall appear before the trial Court weekly once i.e in every Monday at 10.30 a.m., until further orders. 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 of Cr.P.C (355 of BNSS) 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.

04.02.2026

CM



To,
1. Inspector of Police,
T.Kallupatti Police Station,
Madurai District
(In Crime No. 262/2021)

3. The Special District Judge to deal with the Cases of Offences in
Contravention of the Provisions of the Mines and Minerals (D & R) Act, 1957,
Madurai.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.MALA., J.

CM

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