

CrL.M.P.(MD) No.8161 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2026

CORAM

**THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA
AND
THE HONOURABLE MS.JUSTICE R. POORNIMA**

**CRL.MP(MD) No.8161 of 2026
in
CrL.A(MD)No.1369 of 2025**

Kumar

.....Petitioner /sole accused

Vs.

State of Tamil Nadu Rep. by
The Inspector of Police,
G.Vilakku Police Station
Theni District.
Crime No.252 of 2019.

..... Respondent /complainant

PRAYER : Petition filed under Section 430 (1) of BNSS to suspend the sentence of imprisonment imposed on the petitioner in the judgment and conviction delivered by the Principal Sessions Judge, Theni, in S.C.No.9 of 2021 dated 17.10.2025 and enlarge the petitioner on bail pending disposal of the main Criminal Appeal.



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CrL.M.P.(MD) No.8161 of 2026

For Petitioner : Mr.R.Gandhi,
Senior Counsel
for M/s.Gandhi Associates

For Respondent : Mr.C.Christopher
Counsel for State of Tamil Nadu (Crl. side)

ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

Seeking to suspend the sentence imposed on the petitioner by the Principal Sessions Judge, Theni, *vide* Judgment dated 17.10.2025 in S.C.No.9 of 2021, he has filed the Criminal Miscellaneous Petition.

2.The case of the prosecution is that the accused and the deceased are co-brothers and there was an enmity between them on account of sharing an ancestral property. The villagers have conducted a panchayat and settlement was arrived at and since the deceased did not act as per the settlement, the accused had on 16.11.2019 at about 9.00 A.M. started a quarrel and committed the murder of the deceased by pelting stones and assaulting with a hammer resulting in the victim sustaining



CrL.M.P.(MD) No.8161 of 2026

WEB COPY

injuries and later taken to G.Vilakku Government Hospital and from there he was referred to Rajaji Government Hospital, Madurai, where he was declared brought dead. Based on the complaint given by PW1/ wife of the deceased, a case in crime No.252 of 2019 was registered for the offences under Sections 341, 294(b) and 302 IPC.

3. The respondent police after completion of the investigation, filed the final report before the Judicial Magistrate Court, Aundipatty in PRC No.9 of 2020 and after the appearance of the accused and the copies were served under Section 207 Cr.PC, the case was committed to the Principal Sessions Court, Theni and the case was taken up for trial in SC.No.9 of 2021. On the side of the prosecution, PW1 to PW16 were examined and Ex.P1 to Ex.P30 and M.O.1 to M.O.9 were marked. On the side of the defence, no witness was examined and the accused was questioned under Section 317 Cr.P.C., and the accused denied the charges. After hearing both sides, the trial Court convicted the accused for the offences punishable under Sections 302 and 341. Challenging the same, the present criminal appeal has been filed.

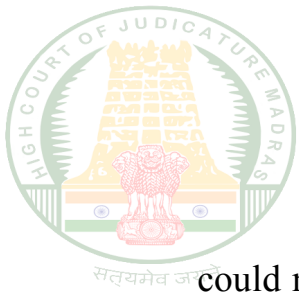


CrL.M.P.(MD) No.8161 of 2026

WEB COPY

4. Mr.R.Gandhi, learned Senior Counsel appearing for the petitioner would submit that though PW1 to PW3 are stated to be witnesses to the occurrence, their presence at the scene of occurrence is highly doubtful. There is a doubt in the origin and genesis of the case. As per the prosecution, PW1 and PW2 are said to have taken the deceased immediately to G.Vilakku Government Hospital and they have also admitted that a policeman from the respondent police station visited them at about 10.00 AM and thereafter, the victim/deceased was referred to Rajaji Government Hospital, Madurai for better treatment where he was declared brought dead. While-so, as per the prosecution case, the complaint was said to have been given to the respondent police station at about 2.00 PM on the same day. There is no explanation for the delay. Further, PW3, who is the blood brother of the deceased, who is said to have witnessed the occurrence has not supported the case of the prosecution and he has been treated hostile.

5. It is the specific case of PW3 that he received an information that his brother sustained injuries on account of a fall. Further, as per the evidence of P.W.14, he seen a cut injury and such injury



CrL.M.P.(MD) No.8161 of 2026

WEB COPY

could not be caused by hammer and therefore, it creates doubt with regard to the presence of eyewitnesses P.W.1 and P.W.2 and the weapon alleged to have been used in the occurrence.

6. He would further submit that the petitioner is in custody from 17.10.2025 onwards and he was on bail during trial and he has also not misused the liberty granted to him. Hence, he prayed to grant suspension of sentence to the petitioner.

7. The respondent has filed a counter. Mr.C.Christopher, learned Counsel for State of Tamil Nadu appearing for the respondent vehemently opposed stating that though P.W.3 has not supported the case of the prosecution, the evidence of P.W.1 and P.W.2 are cogent. The delay was on account of the victim being taken to the Rajaji Government Hospital, Madurai and only after he was declared dead and after P.W.1's return to the police station, the complaint was given. The trial Court rightly appreciating the evidence has convicted the accused, and he would object for grant of suspension of sentence to the petitioner, thereby, he would vehemently oppose for grant of bail to the petitioner.



CrL.M.P.(MD) No.8161 of 2026

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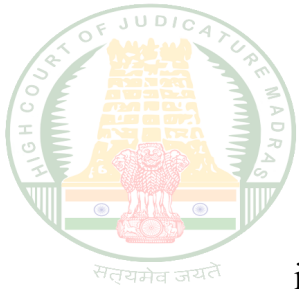
8. Heard the learned counsel on either side and perused the materials available on record.

9. It is an application of suspension of sentence. We would not propose to delve deep into the evidence at this stage. Having gone through the records, we are of the opinion that it is a fit case for grant of suspension of sentence to the petitioner.

10. Accordingly, the Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment alone imposed on the petitioner herein are suspended, subject to the following conditions :

i. The petitioner is directed to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate Court, Aundipatti.

ii. 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 passbook to ensure their identity.



CrL.M.P.(MD) No.8161 of 2026

WEB COPY

iii. The petitioner shall stay at Trichy and report before the Inspector of Police, Palakarai Police Station, Trichy daily at 10.30 a.m., until further orders.

iv. It is made clear that the petitioner shall not enter into the jurisdictional limits of the respondent Police Station until further orders.

[A.D.J.C., J.] [R.P., J.]
30.06.2026

rm

Mark a copy of this order to

*The Inspector of Police,
Palakarai Police Station,
Trichy*

Copy to

1.The Principal Sessions Judge,
Theni.

2. The Inspector of Police,
G.Vilakku Police Station
Theni District.
Crime No.252 of 2019.



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CrL.M.P.(MD) No.8161 of 2026

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