



Crl.M.P.(MD)No.13999 of 2025

in Crl.A.(MD)No.1081 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.04.2026**

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THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.13999 of 2025

in Crl.A.(MD)No.1081 of 2025

Anto Thatheyumisal

... Petitioner

versus

State of Tamilnadu rep. by
The Inspector of Police,
Asaripallam Police Station,
Kanyakumari District.

... Respondent

Petition filed under Section 430(1) BNSS Act, to enlarge the petitioner/appellant on bail, suspending the sentence imposed upon him by Judgment dated 16.04.2025 in S.C.No.259 of 2022 on the file of the learned Principal Assistant Sessions Judge, Nagercoil.

For Petitioner : Mr.C.T.Perumal

For Respondent : Mr.A.S.Abul Kalaam Azad,
Government Advocate (Crl. Side)



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ORDER

The petitioner is the accused No.2 in S.C.No.259 of 2022 on the file of the learned Principal Assistant Sessions Judge, Nagercoil. He was tried along with two other accused for the offence under Section 294(b), 307, 506(2) IPC that they have attacked the defacto complainant's husband with weapons and caused multiple injuries. After the trial, the trial Court, by its Judgment dated 16.04.2025, found the accused persons guilty and convicted and sentenced them as under:

	Sections	Punishment	Fine amount	Default
A1	307 IPC	10 years rigorous imprisonment	Rs.1,000/-	Six months simple imprisonment
A2	307 IPC	10 years rigorous imprisonment	Rs.1,000/-	Six months simple imprisonment
A3	342 IPC	One year rigorous imprisonment	Rs.1,000/-	One month simple imprisonment
A3	307 r/w 34 IPC	10 years rigorous imprisonment	Rs.1,000/-	Six months simple imprisonment

Challenging the Judgment of conviction and sentence, the petitioner has filed a separate appeal before this Court in Crl.A.(MD)No.1081 of 2025 and the same



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was admitted by this Court on 13.10.2025. Along with this appeal, the petitioner has moved this petition seeking to suspend the sentence.

2. The learned counsel appearing for the petitioner has raised the following points:

(i) There is only one eye-witness to the occurrence. P.W.2, who is the injured witness and even as per his evidence, the petitioner/A2 did not cause any injury on his body.

(ii) P.W.6-Investigating Officer, in his evidence, stated that the complaint was lodged by P.W.1 in Asaripallam Medical College Hospital, whereas, P.W.1, in her evidence stated that she lodged the complaint in the police station, since the injured was in unconscious stage. But, as per the evidence of P.W.3-Doctor, the injured was conscious and able to respond the queries.

(iii) The prosecution did not examine any witness to prove the confession given by the 1st accused and also the recovery of M.O.1 and M.O.6.

(iv) The Mahazar witnesses, who are P.W.5 and P.W.6, turned hostile and therefore, the place of occurrence is not proved by the prosecution.

(v) As per the evidence of P.W.2, one Sibbu accompanied him to the place of occurrence, but, he was not examined on the side of the prosecution.



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(vi) As per the evidence of P.W.3, the Doctor who admitted P.W.2 in the hospital, the injured P.W.2 was taken to the Hospital by one Mohamed Thoulath. But, he was not examined on the side of the prosecution.

(vii) The FIR and statements under Section 161(3) Cr.P.C. which were recorded on 11.06.2021, reached the Court only on 13.06.2021.

(viii) As per Ex.P3, the injured P.W.2 was attacked by only one person.

(ix) The petitioner is in custody from the date of conviction, ie. from 16.04.2025.

3. The learned Government Advocate (Crl. Side) opposed this petition stating that all the three accused had attacked P.W.2 and in fact, the petitioner only called P.W.2 to the place of occurrence and the victim has suffered eight injuries, out of which, two injuries are grievous in nature.

4. In response to the objection raised by the learned Government Advocate (Crl. Side), the learned counsel for the petitioner submits that the main overt act is attributed only as against the 1st accused and the 1st accused has already been released on bail by this Court in Crl.M.P.(MD)No.17731 of 2025 dated 07.04.2026, by suspending the sentence imposed by the trial court.



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5. This Court considered the rival submissions made.

6. The petitioner is the 2nd accused in S.C.No.259 of 2022. The case of the prosecution is that the petitioner along with other accused attacked P.W.2 with weapons and caused injuries. The overt act is attributed only as against the 1st accused and the 1st accused has already been released on bail by this Court in Crl.M.P.(MD)No.17731 of 2025 dated 07.04.2026.

7. The petitioner has raised certain arguable points, however, the same can be considered during the final hearing of the appeal and the appeal could not be taken up for final hearing immediately. Further, the petitioner is in jail from the date of conviction.

8. Considering the period of incarceration and also considering the fact that the 1st accused has been released on bail and the appeal could not be taken up for final hearing immediately, this Court is inclined to suspend the sentence with conditions.



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9. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioner is ordered to be enlarged on bail on the following conditions:

(i) The petitioner shall execute a bond for Rs.50,000/- (Rupees fifty thousand only) with two sureties each for a like sum to the satisfaction of the the Principal Assistant Sessions Court, Nagercoil.

(ii) The petitioner and the sureties shall submit a copy of their Aadhaar Card or any other identity card issued by the Government in proof of their residence address, before the trial Court as well as before the respondent Police. In the event, if there is any change of address, the same shall be intimated to the respondent Police without fail.

(iii) The petitioner shall not misuse the liberty granted to him by indulging in any further offence.

(iv) The petitioner shall appear before the trial Court once in a month, i.e. on the first working day of every English Calender month at 10.30 a.m., till the disposal of the appeal.



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(v) If the petitioner violates any of the above conditions, it is open to the respondent police to file an application to cancel the bail granted to him.

09.04.2026

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To

1. The Principal Assistant Sessions Court,
Nagercoil.
2. The Superintendent,
Central Prison, Palayamkottai,
Tirunelveli.
3. The Inspector of Police,
Asaripallam Police Station,
Kanyakumari District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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