

IN THE COURT OF THE SESSIONS JUDGE, ALAPPUZHA

Present: Sri. K.K.Balakrishnan, Sessions Judge

Monday the 2nd day of February, 2026

Crl. M.P. No.2/2026 in Crl.A.No.27/2026

Between:-

Grashan Tomichan, Aged 31 years, S/o Tomichan,
Vaikkathupurayidom, Karikkuzhy, Ward No.13, Aryad
Panchayath, Alappuzha

} Petitioner/Appellant

AND

State of Kerala represented by the Public
Prosecutor, Alappuzha

} Respondent

This petition is filed under Section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) by the petitioner/appellant to suspend the execution of the sentence passed by the Court of Judicial Magistrate of First Class-I, Alappuzha, in C.C.No.2870/2021 dated 19.12.2025.

Petition was presented on : 23.01.2026

This petition coming on 02.02.2026 for hearing before me in the presence of Adv.Visal Kumar.V.G, Counsel for petitioner; Public Prosecutor for the Respondent (State); the Court passed the following:-

ORDER

This petition is filed under Section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) by the petitioner/appellant to suspend the execution of the sentence passed by the Court of Judicial Magistrate of First Class-I, Alappuzha, in C.C.No.2870/2021 dated 19.12.2025.

2. Short facts necessary for the disposal of the petition are as follows:-

The petitioner herein is A2 in the above case. The trial court passed the impugned judgment in C.C.No.2870/2021 on 19.12.2025 and has convicted and sentenced him to undergo simple imprisonment for a period of three months and to pay a fine of ₹1,000/- for offence u/s.323 of IPC. He is also sentenced to undergo simple imprisonment for a period of one year for the offence u/s.324 of IPC. In default of payment of fine, he shall undergo simple imprisonment for a period of one month.

He is acquitted of the offence u/s.447, 294 (b) and 341 of IPC u/s.248 (1) CrPC. Sentences shall run concurrently. Case against A1 is split up and refiled as C.C.No.2985/2021. The order of conviction and sentence passed against the petitioner by the trial court is absolutely erroneous, improper and incorrect and thus, opposed to law, contrary to facts and evidence and hence unsustainable. The investigation of the case was done in the most perfunctory biased manner, causing very serious prejudice to the petitioner. The conviction of him solely rests on the basis of the evidence adduced by PW2 and PW3. The petitioner submits that there is enough material and substantial evidence in favour of the petitioner to allow this appeal. Unless the execution of sentence passed by the trial court is suspended till the disposal of the appeal, the petitioner would be put to untold hardships and irreparable loss. Hence, prayed to suspend the execution of the sentence passed by the trial court till the disposal of the appeal.

3. Heard the petitioner.

4. Considering the facts and circumstance of the case, the petition is allowed. Stay granted for the execution of the sentence till the disposal of the appeal and bail is granted to the petitioner with following conditions:

- (i) The petitioner is directed to deposit the entire fine amount in the trial Court within seven days from the date of this order.
- (ii) He shall be released on bail, on executing bond for ₹50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the jurisdictional Court.

Dictated to the Confidential Assistant, typed by her, corrected and pronounced by me in open court on this the 2nd day of February, 2026.

Sd/-
SESSIONS JUDGE
ALAPPUZHA