



WEB COPY

CRL MP No. 8003 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-07-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL MP No. 8003 of 2026

IN

CRL A NO. 583 OF 2026

Arulkumar
S/o.Shanmugam,
Chinnooran Vattam,
West Vadhanavadi,
Thiruppathur Taluk.

..Petitioner(s)

Vs

State rep. By
The Inspector of Police,
Thiruppathur All Women Police Station,
Thiruppathur.
Crime No.10 of 2020

..Respondent(s)

CRL A No. 583 of 2026

Arulkumar
S/o.Shanmugam,
Chinnooran Vattam,
West Vadhanavadi,
Thiruppathur Taluk.

..Appellant(s)

Vs

State rep. by the Inspector of Police,
Thiruppathur All Women Police Station,
Thiruppathur.
Crime No.10 of 2020

..Respondent(s)

Prayer: Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, 2023, praying to suspend the sentence passed in judgment dated 19.09.2025 in Special Sessions Case No.9 of 2024 by the learned District and Sessions Judge



(Fast Track Court), Thiruppathur Sessions Division of Thiruppathur District and enlarge him on bail, pending disposal of the above Crl.A.No.583 of 2026 on the file of this Court.

For Petitioner(s): Mr.M.G.Udayashankar
For Ms.S.Santha Kumari

For Respondent(s): Mrs.Sharada Vivek,
Government Advocate (Crl. Side)

ORDER

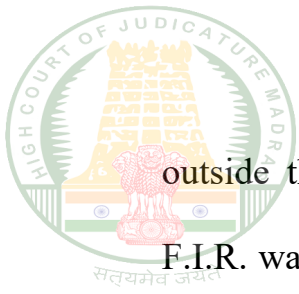
The petitioner/Accused in Spl.S.C.No.9 of 2024 was convicted by the trial Court by the judgment dated 19.09.2025 for the offence under Section 366 of I.P.C. and Section 3(a) r/w 4 of POCSO Act, 2012 and sentenced to undergo ten years rigorous imprisonment and to pay the fine amount of Rs.10,000/-, in default, to undergo three months simple imprisonment for the offence under Section 366 of I.P.C. and sentenced to undergo ten years rigorous imprisonment and to pay the fine amount of Rs.50,000/-, in default, to undergo three months simple imprisonment for the offence under Section 3(a) r/w 4 of POCSO Act. Aggrieved against the said conviction, the petitioner has preferred the above appeal along with the instant miscellaneous petition seeking suspension of sentence and bail.

2.The contention of the learned counsel for petitioner is that the petitioner and the victim girl/PW1 were both in love with each other. The petitioner's family was agreeable for the marriage. Even the petitioner's mother had gone to



the house of the victim and sought for marriage. It was only PW3, the father of the victim, who had some objections, but the love relationship continued. The petitioner and the victim both eloped, since the parents of the victim arranged a marriage against her wish. On 27.06.2020, the victim called the petitioner and both of them went to a temple. Thereafter they stayed together in the petitioner's house. After coming to know about the complaint lodged by the victim's mother/PW2, both appeared before the police station. Initially, they were detained in the police station and later sent home. Thereafter, the case proceeded. The victim in her statement under Section 164 Cr.P.C., clearly confirmed that it was her mother, who lodged the complaint earlier and not the victim. Further, she clearly deposed that on 29.06.2020, her father was asked to give a complaint. Since he informed that he did not know how to write, the petitioner/Arulkumar had written the complaint and the victim's father signed the same.

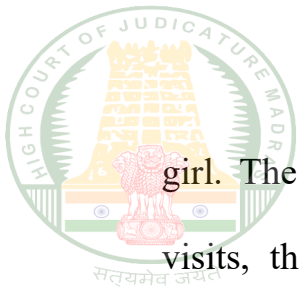
3. The victim further deposed that on 01.07.2020, she was asked to come for a medical check-up. Since her grandfather passed away in the morning, she could not appear on 01.07.2020. On 02.07.2020, the victim and her father went for the medical check-up. Thereafter, on 17.07.2020 and 18.07.2020, the respondent contacted the victim's father and asked him to bring the victim for an enquiry. Since, the F.I.R. copy was not available with them, they were hesitant to participate in the enquiry. But the respondent police stuck the notice



outside their house on 22.07.2020. Thereafter on 27.07.2020, a copy of the F.I.R. was given to them. At that time only the victim came to know that a case has been projected as though the victim had lodged the complaint/Ex.P2. Thereafter, the F.I.R./Ex.P10 registered, which would show that the fundamental fact of the case becomes shaky and the entire structure has to fall.

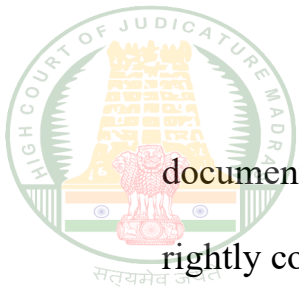
4. The learned counsel for petitioner further submitted that the Doctor/PW9 admits that there is no external injuries and use of force. The medical report/Ex.P7 confirms the same. He further submitted that in this case the hymen found not intact but that might be for various reasons, which the Doctor admitted. He further submitted that in this case, the victim's age is not proved. The school Bonafide Certificate/Ex.P1 was marked through the victim and not through the Head Master. Further no Ossification Test conducted to confirm the age. But the trial Court on its own appreciation of evidence, had given a finding that the age of the victim proved, which is not proper. Hence, prayed for granting suspension of sentence to the petitioner.

5. The learned Government Advocate (Crl. Side) strongly opposed the petitioner's contention and filed counter submitting that the victim is aged about 16 years and she studied up to 11th standard in Holy Angels School, Salem. Due to the lockdown, her family temporarily came to their native place and stayed there. The petitioner is aged about 21 years and he is the aunt's son of the victim



girl. The petitioner often started going to their house as a relative. On such visits, the petitioner used to talk to the victim and developed a closeness between them, which later turned into a love affair. Taking advantage of the tender age of the victim, the petitioner often coerced, seduced and enticed her making false promise that he will marry her and with a malafide intention to exploit her sexually. On 27.06.2020 and 28.06.2020, during night hours at about 01.30 a.m., when the victim girl came out of the house, the petitioner came there and forcibly kidnapped her and took her to Kondappanayakanpatti Murugankoil and married her. Taking advantage of their loneliness, the petitioner had a sexual intercourse with the victim. Hence the complaint was lodged. Based on the above complaint, a case was registered in All Women Police Station, Tiruppathur, in Crime No.10 of 2020 for offence under Sections 363, 366 of I.P.C. r/w Section 3 (a) of POCSO Act and Section 9 of Child Marriage Act against the petitioner on 30.06.2020 by the Inspector of Police and the case was taken up for investigation.

6. The learned Government Advocate further submitted that after completion of investigation, the then Investigating Officer filed a charge sheet before the learned District and Sessions Judge (FAC), Thiruppathur District and the same was taken on file in Spl.S.C No.09 of 2024. She further submitted the during trial, on the side of the prosecution, PW1 to PW12 examined and Exs.P1 to P13 marked. On the side of the defence, no witnesses examined and no



documents marked. The trial Court on the evidence and materials produced had rightly convicted the petitioner.

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7. Considering the submissions made and on perusal of the materials, it is seen that in this case the victim admitted her love relationship with the petitioner both in her earlier statement and before the Doctor/PW9, who issued Ex.P7. Further, the victim/PW1 confirms that the petitioner's mother had come seeking for a marriage and it was PW3, her father, who opposed the marriage. In this case, the evidence of Doctor/PW9 confirms that there is no injuries and hymen being intact can be for various reasons. Further the victim in her 164 statement not stated anything about penetrative sexual assault. PW2, the mother of the victim states that she found her daughter missing, hence she lodged a complaint and PW1/victim's statement is that her father's signature was obtained and the complaint written by Arulkumar/petitioner on 29.06.2020. But strangely, the complaint/Ex.P2 is shown as though it was given by PW1/victim. The victim in her statement before the Magistrate, clearly narrates that she had not lodged any complaint. In this case, there is discrepancy in the initial complaint and F.I.R., hence, the fundamental fact itself has become shaky. The trial Court had relied only on the evidence of witnesses but not analysed the evidence properly and gave a finding of conviction. Finding that there are arguable points involved in this appeal and it would take some time for the appeal to be taken up for final hearing, this Court is inclined to suspend the sentence imposed on the petitioner.



8. Accordingly, the substantive sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the appeal and he is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

9. Further, the petitioner shall appear before the Trial Court once in three months on the first working day at 10.30 a.m., until the disposal of the appeal and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.

10. Accordingly, this Criminal Miscellaneous Petition is ordered.

14-07-2026

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

Note: Issue order copy on 14.07.2026.



CRL MP No. 8003 of 2



M.NIRMAL KUMAR J.

RSI

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To

- 1.The District and Sessions Judge (FAC),
Thiruppathur.
Sessions Division of Thiruppathur District.
- 2.The Inspector of Police,
Thiruppathur All Women Police Station,
Thiruppathur.
- 3.The Superintendent of Prison,
Central Prison, Vellore.
- 4.The Public Prosecutor,
High Court, Madras.

CRL MP No. 8003 of 2026
IN
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