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CRL MP No. 11711 of 2026



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-08-2026

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THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL MP No. 11711 of 2026

in

CRL A No. 812 of 2026

Jabar

Petitioner(s)

Vs

The State Rep By,
The Inspector of Police
Sathuvachari Police Station,
Vellore.
Crime No.172 of 2021

Respondent(s)

PRAYER: Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, to suspend the sentence imposed in Special SC.No.165 of 2021 on the file of the Special Court to deal with cases related to Protection of Children from Sexual Offences act, Vellore dated 24.06.2026 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner(s): Mr.M.Vignesh

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

**ORDER**

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence of imprisonment passed against the petitioner/accused pursuant to the judgment dated 24.06.2026 passed in Special S.C.No.165 of 2021 on the file of the Special Court to deal with cases related to Protection of Children from Sexual Offences Act, Vellore and to enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

2. The conviction and sentence imposed on the petitioner/appellant, vide impugned judgment dated 24.06.2024 are as follows:-

<i>Sl. No.</i>	<i>Sections</i>	<i>Imprisonment</i>	<i>Fine amount</i>
1.	U/s. 9(m) punishable under Section 10 of POCSO Act	Sentenced to undergo 7 years of rigorous imprisonment and to pay a fine of Rs.15,000/- in default to undergo 1 year simple imprisonment.	Rs.15,000/-

3. Aggrieved by the said conviction and sentence, the petitioner has preferred Crl.A.No.812 of 2026 before this Court, along with the instant criminal miscellaneous petition seeking suspension of sentence and grant of bail.



4. The case of the prosecution is that on 04.07.2021 at about 2.00 p.m. the victim child aged about 7 years, accompanied by her elder brother, went to a bunk shop run by the appellant's family to purchase chips. It is alleged that the appellant, who was present at the shop, with sexual intent, took the victim child into his house, pinched her cheeks, kissed her, remove her clothing, and placed his hands on her private parts. The prosecution contended that the appellant committed aggravated sexual assault knowing the victim was a minor. Since the victim child belonged to the Scheduled Caste (Adi Dravidar) Community, the FIR was registered under Section 10, r/w 9(m) of the POCSO Act 2012, Section 342 of the IPC and Section 3(1)(w) (i) SC/ST (Prevention of Atrocities) Act in Crime No. 172 of 2021 by the respondent police. Subsequently, charge sheet filed for the above mentioned sections and subsequently, Spl.S.C. No. 165 of 2021 was assigned to the Special Court to deal with cases related to POCSO Act 2012, Vellore.

5. During the trial, the prosecution examined P.W1 to P.W.14 and marked Exhibits P1 to P15. On the side of the defense, D.W.1 was examined and no documentary exhibits were marked.

6. The trial Court, upon considering the oral and documentary evidence and after hearing arguments on both sides, found the petitioner/accused guilty of



the offence under Section 9(m) punishable under Section 10 of POCSO Act, and subsequently convicted and sentenced him as stated above, *vide* its judgment dated 24.06.2026.

7. The learned counsel for the petitioner submitted that, the petitioner has been falsely implicated due to a prior dispute regarding a pathway between the petitioner's family and the victim's mother. He submitted that while the petitioner's shop is located on the ground floor, and the petitioner resides on the second floor, and the first floor is occupied by other tenants. The prosecution alleges that on 04.07.2021, at about 2.00 p.m., the victim (P.W.2) along with her elder brother had come to petitioner's bunk shop to purchase chips. At that time, the victim's brother had gone to answer nature's call, the petitioner took the victim girl to the second floor of his residence and he had removed undressed, hugged and kissed her, and placed his hands on her private parts, which is highly improbable. He further pointed out that the victim's elder brother, a vital eyewitness, was never examined as witness by the prosecution. Furthermore, P.W.4, a relative, only arrived after a crowd gathered and merely saw the child running, without witnessing any overt act. He further relied on material contradictions, stating that in the statement recorded under Section 164 of the Cr.P.C., and during the medical examination by the doctor (P.W.8), the victim explicitly stated that she was not undressed and the petitioner had placed his



hands on her private parts. Therefore, he submitted that the essential ingredients of aggravated penetrative sexual assault would not attract and he prayed for the suspension of sentence.

8. Mrs. Sharada Vivek, learned Government Advocate (Crl. Side) appearing for the respondent police vehemently opposed the grant of bail and filed a detailed counter-affidavit. She submitted that the victim is a 7 years old child, who had merely gone to purchase chips. The victim child consistently narrated the petitioner's over acts of kissing and inappropriate touching before her mother, the learned Magistrate and the trial Court. She contended that the minor status of the victim aggravates the physical assault under Section 10 read with Section 9(m) of the POCSO Act. She further argued that the trial Court evaluated the evidence in its entirety and rightly convicted the accused, and therefore, prayed for the dismissal of the petition.

9. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent police and also perused the materials available on record.

10. Considering the above submission made by the learned counsel on either side, it is observed that, except for the sole testimony of the minor victim



(P.W.2), no other independent witness speaks directly to the core of the occurrence. While the victim stated during her evidence/deposition that she was taken to the second floor of the petitioner's residence and undressed, placed his hands on her private parts, this material claim is directly contradicted by her statement recorded under Section 164 of the Cr.P.C., and her statement to the medical officer/doctor (P.W.8), wherein she explicitly stated that she was not undressed. There appear to be some exaggerations and contradictions between the testimonies of the victim's parents, P.W.1 and P.W.3. The victim's elder brother, who accompanied her to the shop, was not examined as a witness. Further, there is no objective evidence was produced to conclusively prove that the victim was taken to the second floor of the building. In view of these contradictions and the arguable nature of the appeal, this Court is inclined to grant the relief of suspension of sentence and bail to the petitioner.

11. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioner is suspended till the disposal of the above criminal appeal and the petitioner is ordered to be released on bail on the following conditions:

- (i) The petitioner/Appellant/Accused 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



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learned Special Court to deal with cases related to Protection of Children from Sexual Offences act, Vellore;

(ii) The Petitioner/Appellant/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity and;

(iii) The petitioner/Appellant/Accused shall appear before the trial Court at 10.30 a.m., once in every three months, without fail, until further orders;

(iv) On breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in *P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]*.

18-08-2026

Jd

Neutral Citation: Yes/No

To

1. The Learned Special Court to deal with cases related to Protection of Children from Sexual Offences act, Vellore.
2. The Superintendent, Central Prison, Vellore.
3. The Inspector of Police, Sathuvachari Police Station, Vellore.



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M.NIRMAL KUMAR J.
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4. The Public Prosecutor, Madras High Court, Chennai.

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