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CRL MP No. 11889 of 2
in Crl.A.No.825 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-08-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

**CRL MP No. 11889 of 2026
in Crl.A.No.825 of 2026**

Ramesh,
S/o.Desingu Moorthu,
No.367, Pillaiyar Koil Street,
Maruthuvambadi Village and Post,
Tiruvannamalai District.

..Petitioner(s)

Vs

The State Represented by
The Inspector of Police,
Thiruvannamalai All Women Police Station,
Thiruvannamalai.
Crime No.12 of 2022

..Respondent(s)

PRAYER: Criminal Miscellaneous Petition filed under Section 438 of BNSS, praying to Suspend the Sentence and release the Petitioner on Bail in respect of the Judgment passed by the learned Judge of Special Court for Exclusive Trial of Cases under POCSO Act, Thiruvannamalai, in SPI SC No. 137 of 2022 dated 29-5-2025 pending disposal of the main Criminal Appeal and thus render justice.

For Petitioner(s): Mr.T.Shanmugam

For Respondent(s): Mrs.Sharada Vivek,
Government Advocate (Crl.Side)
Assisted by Mr.M.Arul Raj



ORDER

This Criminal Miscellaneous Petition has been filed seeking suspension of the sentence of imprisonment imposed by the judgment dated 29.05.2026 passed in Spl.S.C.No.137 of 2022 by the learned Judge of Special Court for Exclusive Trial of Cases under POCSO Act, Thiruvannamalai, and to enlarge the petitioner on bail pending disposal of Criminal Appeal No.825 of 2026 before this Court.

2. The conviction and sentence imposed on the petitioner/appellant vide the impugned judgment dated 29.05.2026 are as follows:

Section	Imprisonment	Fine Amount
366 of IPC	Sentenced to undergo Rigorous Imprisonment for a period of ten years and to pay a fine of Rs.10,000/-, and in default of payment of fine, the accused shall undergo further one year of simple imprisonment.	Rs.20,000/-
342 of IPC	Sentenced to undergo Simple Imprisonment for a period of one year.	
376(3), 376(2) (n) of IPC and Section 6 of POCSO Act	Sentenced to undergo Rigorous Imprisonment for a period of twenty years and to pay a fine of Rs.10,000/-, and in default of payment of fine, the accused shall undergo further one year of simple imprisonment.	



3. Aggrieved by the said conviction and sentence, the petitioner has preferred Crl.A.No.1018 of 2026 before this Court, along with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

4. The case of the prosecution is that the defacto complainant is the mother of the Victim child. On 03.04.2022, at about 3.00 p.m., the de facto complainant sent the victim child to her grandmother's house at Pillayar Temple Street. At about 5.00 p.m., the victim returned home crying and informed her mother that, while she was proceeding to her grandmother's house, A1 stopped her, took her inside his house, locked the house and repeatedly subjected her to penetrative sexual assault. When the victim raised an alarm, A1 allegedly prevented her from escaping. It is further alleged that, though A2 was present there, she did not prevent A1 from taking the victim inside the house. The Victim thereafter escaped from the house of A1 and informed her mother about the occurrence. The defacto complainant informed her husband, who was residing at Chennai, and, after his return, lodged a complaint on 05.04.2022. Hence the case.

5. The learned counsel for the petitioner submitted that the petitioner has been falsely implicated in this case. In this case, initially mother of the victim (PW1), victim (PW2), father (PW3), mahazar witness (PW4) and a neighbour (PW5), all the other witnesses have been turned hostile. In this case even the



doctor who is PW10 has given accident register under Ex.P10, medical certificate under Ex.P11, forensic report under Ex.P12, nowhere she states that there is any forcible penetrative sexual assault and also records that there is no bleeding or any other marks. Later they were cross examined and they were also confirmed that there had been dispute between the petitioner's family with the victim's family and there is no possibility of victim going along with the petitioner's family and thereafter the petitioner committed penetrative sexual assault. To implicate A2 brother's wife she has been shown to be present, after getting call records the trial court found no evidence against A2 acquitted her but on the other hand convicting the petitioner is not proper.

6. The learned Government Advocate (Criminal Side) strongly opposed the petition and submitted that based on the said complaint, a case was registered at Tiruvannamalai All Women Police Station, Tiruvannamalai District, in Crime No.12 of 2022 for the offences under Sections 363, 376(3), 376(2)(n) and 323 IPC and Section 5(1) read with Section 6 of the POCSO Act on 05.04.2022 at about 08.30 hours by Tmt.Anbarasi, the then Inspector of Police, who took up the case for further investigation. It is submitted that, after completion of the investigation, the then Inspector of Police filed the charge sheet on 05.07.2022 against A1 and A2 before the Learned Special Court for Exclusive Trial of Cases under the POCSO Act, Tiruvannamalai, and the same was taken on file in Spl.S.C.No.137 of 2022 on 23.09.2022. It is submitted that



in this case total 12 witnesses have been examined PW1 to PW12, Exs.P1 to P19 marked, M.O.1 mobile phone seized. The trial court on the evidence submitted that the victims are villagers and they were not conversant with the Court procedure. Initially though they were treated hostile, during cross examination by the prosecutor they admitted their earlier statement in this case. PW2 victim had narrated the sequence except for one portion of the evidence and further she has been treated hostile but later during the cross examination she confirms the case of the prosecution. Further evidence recorded prior to being declared hostile can be considered. The trial court on considering the evidence of the witnesses and marked Ex.P10 and Ex.P11 had rightly convicted.

7. Heard both sides and perused the materials available on record.

8. Considering the facts and circumstances of the case, it is seen that the victim (PW2) that there are some contradictions in the manner in which the complaint has been lodged and that too with the delay but explanation given considering that the witnesses background this delay can be accepted. Further, Ex.P10 in the accident register and in the medical certificate Ex.P11 it is clearly recorded that the victim was subjected to penetrative sexual assault four times on 03.04.2022. She also complained about pain in the breast and bleeding after the incident and external genital in Ex.P10 and Ex.P11. The abrasions on the sides of the labia and tenderness of the touch have recorded confirming that the



victim was subjected to penetrative sexual assault.

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9. In view of the above, this Court finds that there is no ground to grant suspension of sentence.

10. Accordingly, this Criminal Miscellaneous Petition stands dismissed.

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

CDA



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To

- 1.The Judge of Special Court for Exclusive Trial of Cases
under POCSO Act, Thiruvannamalai.
- 2.The Inspector of Police,
Thiruvannamalai All Women Police Station,
Thiruvannamalai.
- 3.The Public Prosecutor,
High Court of Madras.



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M.NIRMAL KUMAR J.

CDA

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