



WEB COPY

CRL MP No. 12245 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-08-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL MP No. 12245 of 2026

IN

CRL A NO. 847 OF 2026

Murugesan @ Chinnarasu
S/o. Murugan,
Road Street, Seenanthal Village,
Ganthapalayam Post,
Kalasapakkam Taluk.

..Petitioner(s)

Vs

State Represented by its
Inspector of Police
Polur Police Station,
Thiruvannamalai District.
Crime No. 256 of 2022.

..Respondent(s)

CRL A No. 847 of 2026

Murugesan @ Chinnarasu
S/o. Murugan,
Road Street, Seenanthal Village,
Ganthapalayam Post,
Kalasapakkam Taluk.

..Appellant(s)

Vs

State Represented by its Inspector of Police
Polur Police Station,
Thiruvannamalai District.
Crime No. 256 of 2022.

..Respondent(s)

Prayer: Criminal Miscellaneous Petition filed under Section 430(3) of BNSS, 2023, praying to suspend the sentence imposed in the Judgment dated 10.06.2026 in Spl.S.C.No.120 of 2022, on the file of learned Session Judge,



Magalir Neethi Mandram (Fast Track Mahila Court) Tiruvannamalai, and enlarge the Petitioner on bail, pending disposal of this Criminal Appeal.

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For Petitioner(s): Mr.K.Kathiresan

For Respondent(s): Mrs.Sharada Vivek,
Counsel for Government of Tamilnadu (Crl. Side)

ORDER

The petitioner/Accused in Spl.S.C.No.120 of 2022 was convicted by the Trial Court, by the judgment dated 10.06.2026, for the offence under Sections 366 of I.P.C. and Section 5(1) r/w 6 of Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo ten years rigorous imprisonment and to pay a fine amount of Rs.1,000/-, in default, to undergo two months imprisonment for the offence under Section 366 of I.P.C. and sentenced to undergo ten years rigorous imprisonment and to pay a fine amount of Rs.1,000/-, in default, to undergo two months imprisonment for the offence under Section 5(1) r/w 6 of POCSO Act. The sentences were directed to be run concurrently. 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 learned counsel for the petitioner submitted that the petitioner and the victim girl/PW2 were in love with each other and the victim girl three months short of attaining majority. Since the parents of the victim girl were



arranging a marriage against her wish, she informed the petitioner and forced the petitioner to take her away, otherwise she would end her life. Left with no other option, the petitioner had to accompany the victim girl. Thereafter, the petitioner took the victim girl to his friend's house and stayed there on 23.07.2022. Thereafter, on the compulsion of the victim, the petitioner tied the Thali at the Murugan temple and they stayed together. During this period, the victim had not shown any resistance or informed anyone that she was forcibly kidnapped and subjected to penetrative sexual assault.

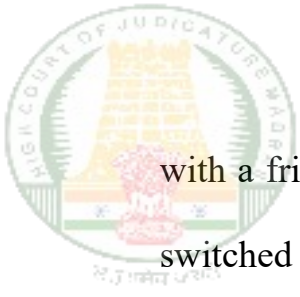
3.The learned counsel further submitted that, according to the prosecution, the petitioner and the victim were staying in the Girivalam Path, which is an open area where several Sadhus and others stay and in this path thousands of pilgrims undertake Girivalam. Since the petitioner belongs to SC Community and victim belongs to Agamudayar community, the parents of the victim not agreeable for the marriage and projected a false case as though the petitioner kidnapped the victim girl and committed penetrative sexual assault on her. On 01.08.2022, immediately after the victim appeared before the respondent police, she was produced before the Doctor/PW10, who examined her. At that time, the victim informed, she eloped with the petitioner and they were staying together and not made any allegation of forcible penetrative sexual assault. The Doctor in the Accident Register/Ex.P8 recorded the statement of the victim and recorded both left Polur, stayed in the house of the petitioner's



friend and thereafter with petitioner's relative. These facts withheld by the prosecution, which was brought out during cross-examination referring and confronting with documents.

4. He further submitted that PW3, the mother of the victim admits that in her complaint/Ex.P1, she informed that she contacted the victim on her mobile phone and the victim informed, she was staying in her friend's house, not complained about forcible kidnapping or detention by the petitioner. He further submitted that in the adolescent age not knowing the seriousness and consequences, the petitioner and the victim eloped and stayed together for a week, which is now projected against the petitioner. Hence, he prayed to grant bail to the petitioner.

5. The learned counsel for Government of Tamilnadu (Crl. Side) strongly opposed the petitioner's contention and submitted that the case of the prosecution is that on 26.07.2022 at about 11.30 a.m., the de-facto complainant namely Arjunan, had lodged a complaint before the respondent police station. He stated that he was residing with his wife Senthamarai and had three daughters. His eldest daughter, victim, aged about 17 years, completed her Higher Secondary education and is working for the past seven months at Kurinji Super Market, Polur. On 23.07.2022, she left home in the morning to attend her work as usual. She did not return home at her usual time of 8.00 p.m. When her mother contacted her over the phone, victim informed her that she was staying



with a friend and would return the next day, after which her mobile phone was switched off. On the following morning, the complainant enquired with the management of Kurinji Super Market and was informed that, on account of the Aadi Krithigai festival, all employees relieved from duty at about 2.30 p.m. on 23.07.2022. Thereafter, the Complainant and his family made a diligent search for victim at various places, but her whereabouts could not be traced.

6. She further submitted that based on the above complaint, a case was registered in Polur Police Station, Tiruvannamalai, in Crime No.256 of 2022, under "Girl Missing" on 26.07.2022 at about 11.30 hours by the Sub Inspector of Police, and the same submitted before the Inspector of Police, who took up the case for further investigation. On 23.07.2022 at about 2.30 p.m., when the victim was standing at the Polur Bus Stand to return to her house, the petitioner approached her and reiterated his promise to marry her, thereby persuading her to accompany him. Knowing fully well that the victim was a minor, the accused took her away from the lawful custody of her parents and escorted her to the rear side of Narkundru Murugan Temple. There, in a secluded bushy area behind the temple, the petitioner emotionally manipulated the victim by stating that he would marry her and that he could not live without her. Thereafter, taking advantage of the victim's vulnerable position, the accused committed penetrative sexual assault on her.



7. She further submitted that during the course of investigation, on 01.08.2022, the Inspector of Police arrested the petitioner and recorded his confession statement and produced him before the learned Session Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Tiruvannamalai and remanded into Judicial custody. Based on the witnesses statement the Respondent Police altered the Section from "Girl Missing" to Sections 363, 366, 376(2)(n) of I.P.C. and Section 5(1) r/w 6(1) of POCSO Act 2012. Upon completion of detailed investigation, on 25.08.2022, the Inspector of Police filed the charge sheet against the accused before the learned Session Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Tiruvannamalai, and the same was taken on file in Spl.S.C.No.120 of 2022 on 05.09.2022. During trial, PW1 to PW13 examined and Exs.P1 to 18 marked. The Trial Court on the evidence of witnesses and materials produced had rightly convicted the petitioner. Hence, she prayed to dismiss the petition.

8. Considering the submission made and on perusal of the materials, it is seen that the petitioner and the victim were in love with each other. The victim admit the love relationship and she and the petitioner eloped on 23.07.2022, thereafter they stayed in the house of petitioner's friend and relative for seven days. After a week, the petitioner took the victim in a Bus to Polur. The police secured the victim, produced her before the Doctor. The Doctor confirms the love relationship and both the petitioner and victim staying together for one



week. As per Ex.P8, there are no injuries or marks to confirm that there was any forcibly act committed by the petitioner. Further the Doctor/PW10 admitted that the hymen was not intact but that may be for various reasons. The difference in the social status of the petitioner and the victim is the reason for the parent of the victim opposing the marriage, despite it is a love affair. Due to the difference in their social status, the relationship has now given a twist and projected as kidnapping and penetrative sexual assault. In view of the above, this Court finds that the conviction of the petitioner requires reconsideration.

9. 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.

10. 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.



11. On breach of any of the aforementioned conditions, the learned Trial Judge is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by herself as laid down by the Hon'ble Supreme Court in **P.K.Shaji Vs. State of Kerala** [(2005) 13 SCC 5560].

12. Accordingly, this Criminal Miscellaneous Petition is ordered.

13-08-2026

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

Note: Issue order copy on 14.08.2026.



To

1. The Sessions Judge,
Magalir Neethi Mandram (Fast Track Mahila Court)
Tiruvannamalai.

2. The Inspector of Police
Polur Police Station,
Thiruvannamalai District.

3. The Superintendent of Prison,
Central Prison, Vellore.

4. The Public Prosecutor,
High Court of Madras.



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M.NIRMAL KUMAR J.

RSI

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