



WEB COPY

CRL MP No. 12505 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-08-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL MP No. 12505 of 2026

AND

CRL A NO. 870 OF 2026

Jaganathan
S/o. Dhasarathan,
Perumal Koil Street,
Mettukuppam Village,
Elavur Post,
Gummidipoondi Taluk,
Thiruvallur District.

..Petitioner(s)

Vs

State Rep By, The Inspector of Police
All Women Police Station,
Gummidipoondi,
Thiruvallur District.
Crime No.7 of 2023

..Respondent(s)

CRL A No. 870 of 2026

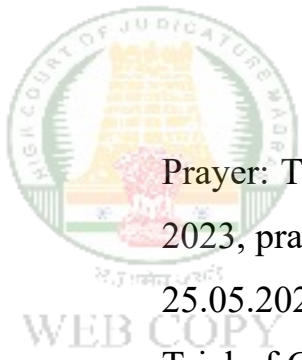
Jaganathan
S/o. Dhasarathan,
Perumal Koil Street,
Mettupalayam Village,
Elavur Post,
Gummidipoondi Taluk,
Thiruvallur District.

..Appellant(s)

Vs

State Rep By, The Inspector of Police
All Women Police Station,
Gummidipoondi,
Thiruvallur District.
Crime No.7 of 2023

..Respondent(s)



Prayer: This Criminal Miscellaneous Petition filed under Section 430 of BNSS, 2023, praying to suspend the sentence imposed in Spl.S.C.No.304 of 2023 dated 25.05.2026 on the file of learned Sessions Judge, Special Court for Exclusively Trial of Cases under POCSO Act, Thiruvallur and enlarge the petitioner on bail pending disposal of Criminal Appeal.

For Petitioner(s): Mr.S.N. Arunkumar

For Respondent(s): Mrs.Sharada Vivek
Counsel for Government of Tamilnadu (Crl. Side)
Assisted by Mr.M.Arul Raj

Order

The petitioner/Accused in Spl.S.C.No.304 of 2023 was convicted by the Trial Court, by the judgment dated 25.05.2026, for the offence under Sections 450 of I.P.C. and Section 354 of I.P.C. and Section 7 r/w 8 of POCSO Act, 2012 and sentenced to undergo ten years rigorous imprisonment and to pay a fine amount of Rs.10,000/-, in default, to undergo three years simple imprisonment, for the offence under Section 450 of I.P.C. and sentenced to undergo five years rigorous imprisonment and to pay a fine amount of Rs.5,000/-, in default, to undergo one year simple imprisonment, for the offence under Section 354 of I.P.C. and Section 7 r/w 8 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 learned counsel for the petitioner submitted that in this case the petitioner and the de facto complainant/grandfather of the victim had a land dispute regarding common pathway and the usage of water. This dispute has been there for almost 15 years and they have been periodically lodging complaints against each other and several village panchayats also taken place. In this background, it is projected as though when the entire family members were participating in the Mariamman Temple festival and the victim/PW2, the granddaughter of PW1 was alone and watching T.V., the petitioner entered into the house, kissed her on her lips and thereafter left the place. In this case, though the occurrence said to have taken place on 07.05.2023, the complaint was lodged on 08.05.2023 with a delay. Due to the previous enmity, on suspicion, the petitioner lodged a complaint on the same day but no action has been taken. In this case PW2/victim clearly states that she was not aware, who entered the house and kissed her. According to her, a stranger had come in. PW1/grandfather states that he was initially doubtful, but later suspected the petitioner, who would have alone entered the house and kissed his granddaughter. Hence, the entire case proceeds on suspicion. Admittedly, in this case, no test identification parade conducted. PW2 admits that it was the grandfather, who had given the name of the petitioner. The trial Court not considered all these facts. Hence, he prayed to grant bail to the petitioner.



3.The learned counsel for Government of Tamilnadu (Criminal Side) opposed the petitioner's contention and submitted that the case of the prosecution is that the de facto complainant is the grandfather of the victim, who is aged about 14 years and her date of birth is 31.12.2008. The petitioner, aged about 35 years at the time of the occurrence, was residing at Perumal Koil Street, Mettukuppam Village, Elavoor Post, Gummidipoondi Taluk, Thiruvallur District. The petitioner was residing in the same street where the victim's grandfather (P.W.1) resided. The petitioner was already married and had two children. On 07.05.2023, the victim, along with her siblings, visited the house of her grandfather (P.W.1). At about 9.00 p.m., while the victim was alone in the bedroom of her grandfather's house, the petitioner, having become aware of the said circumstance and with the intention of committing a sexual offence, he criminally trespassed into the house of the victim's grandfather by unlawfully entering the bedroom where the child victim was alone. The petitioner caught hold of the hand of the victim, pulled her towards him, and kissed her on her lips, thereby using criminal force upon her with the intention of outraging her modesty and committing sexual assault upon her.

4.She further submitted that, based on the aforesaid incident, a case was registered in All Women Police Station, Gummidipoondi, Tiruvallur District, in Crime No.7 of 2023, for offence under Sections 11 & 12 of POCSO Act, against the petitioner on 10.05.2023 by the Inspector of Police, who had taken



up the case for investigation. After completion of investigation, altered the offences under section 451, 354 IPC and sec. 7, r/w.8 of POCSO Act and charge sheet was filed before the learned Sessions Judge, Special Court for POCSO Act, Tiruvallur and the same is taken on file in Spl.S.C.No.304 of 2023.

5. She further submitted that in this case PW2 had clearly named the petitioner that he is the person who entered the house and kissed her. PW1, PW3 and PW4 are the grandfather, mother and father of the victim, respectively. PW5 is the sister of the victim, who stated that she saw the petitioner running out from her grandfather's house. Thus, the petitioner found near the victim's house is confirmed. Considering all these facts, the Trial Court had rightly convicted the petitioner. Hence, she prayed to dismiss the petition.

6. Considering the submissions made and on perusal of the materials, it is seen that PW2 is the victim, who confirms that she is not aware, who entered the house and kissed her. She further admits that it was her grandfather and uncle, who gave the name of the petitioner. PW5, the sister of victim deposed that she had seen the petitioner running near the house of the victim. It is not in dispute that the de facto complainant and the petitioner having land dispute for 10 to 15 years and they are making complaints to the police against each other regularly and village panchayats also held in this regard. Hence, there is



previous animosity between them. Further it is stated that petitioner entered the house and kissed the victim. On going through the evidence of PW2, it is seen that PW2 not identified the petitioner in the Court. Hence, the conviction of the petitioner requires reconsideration.

7. 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.

8. 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.

9. 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].



10. Accordingly, this Criminal Miscellaneous Petition is ordered.

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24-08-2026

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

RSI

Note: Issue order copy on 24.08.2026.

To

1.The Sessions Judge,
Special Court for Exclusively Trial of Cases under POCSO Act,
Thiruvallur.

2.The Inspector of Police
All Women Police Station,
Gummidipoondi,
Thiruvallur District.

3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai

4.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR J.

RSI

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in
CRL A NO. 870 OF 2026**

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