



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-07-2026

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL MP No. 12176 of 2026

in

CRL A No. 841 of 2026

Rogan R Shah

Petitioner(s)

Vs

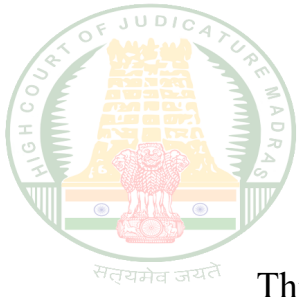
State Rep By,
The Inspector of Police,
W-13, All Women Police Station,
Washermenpet, Chennai District.
Crime.No.17 of 2022

Respondent(s)

PRAYER: Criminal Miscellaneous Petition filed under Section 430(2) of BNSS Act, to suspend the sentence imposed in Spl.S.C.No.102 of 2023 on the file of the Sessions Judge Special Court for Exclusive Trial of cases under POCSO Act, Chennai by enlarging the petitioner on bail by pending disposal of Criminal Appeal before this Court.

For Petitioner(s): Mr.T.Muruganantham

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

**ORDER**

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This Criminal Miscellaneous Petition has been filed seeking suspension of the sentence imposed on the petitioner in Spl.S.C.No.102 of 2023 on the file of the Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Chennai, and to enlarge the petitioner on bail pending disposal of the Criminal Appeal before this Court.

2. The conviction and sentence imposed on the petitioner/appellant, vide impugned judgment dated 23.06.2026 is as follows:-

<i>Sl. No.</i>	<i>Section</i>	<i>Imprisonment</i>	<i>Fine amount</i>
1.	U/s. 10 of POCSO Act	Sentenced to Rigorous Imprisonment for 5 years and imposed a fine of Rs.20,000/- (Twenty Thousand Only) in default to undergo Simple Imprisonment for three months.	Rs.20,000/-

3. The brief facts of the case are as follows:

3.1. On 19.12.2022, at about 8.30 p.m., while the victim girl was playing at the house of the petitioner/accused, the petitioner/accused placed the child on his lap, kissed her on the lips, and touched her private parts. Thus the accused



committed offences punishable under Section 8, 9(m) read with 10 of Protection of Children from Sexual Offences Act, 2012.

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4. The trial Court, after hearing the arguments on both sides and upon consideration of the entire materials on record, found the petitioner/ appellant, guilty of the offence under Section 10 of POCSO Act, and subsequently convicted and sentenced him as stated above, *vide* judgment dated 23.06.2026.

5. Aggrieved by the above conviction and sentence imposed by the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Chennai, the petitioner/appellant has preferred an appeal in CrI.A.No.841 of 2026, along with this miscellaneous petition seeking suspension of sentence, pending disposal of the above appeal.

6. The learned counsel for the petitioner submitted that the petitioner and the victim's family reside opposite each other and have known one another for some time. As they hail from North India and conversing the same language, they shared a cordial relationship. He further submitted that P.W.4, the father of the victim child, regularly requested financial assistance, which the petitioner used to provide the same. However, on one occasion, when the

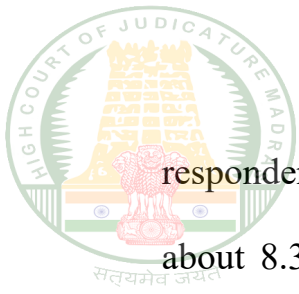


petitioner/appellant refused to extend monetary help, a misunderstanding arose.

This issue was subsequently magnified, and a false complaint was lodged using the victim girl. To substantiate this financial transaction, the petitioner examined himself as D.W.1, his wife as D.W.2, and his father-in-law as D.W.3, all of whom confirmed the financial transactions between the petitioner and P.W.4, the father of the victim.

7. He further submitted that the victim, in her evidence, admitted that her mother accompanied her and had tutored her while her initial statement was being recorded. Even going by the statement of evidence of P.W1, the victim had voluntarily gone to the house of the petitioner/appellant to play with the petitioner's son. It is also admitted P.W.2, the mother of the victim. It is noted that the street is narrow, making activities in the petitioner's house clearly visible from the opposite house. The victim was sitting in the hall along with the petitioner's son, went back to her home, and returned later, at that time, the petitioner allegedly hugged her, kissed on the lips thrice, and touched her chest and private parts. The learned counsel further submitted that, although it is alleged that the victim suffered pain and informed her mother, she was never taken to a hospital for treatment, which defies a normal human conduct.

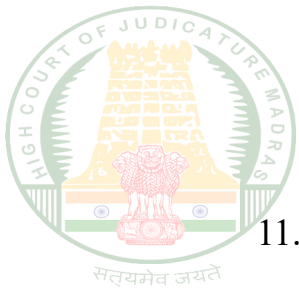
8. The learned Government Advocate (Crl.Side) appearing for the



respondent police filed a counter affidavit and submitted that, on 19.12.2022 at about 8.30 p.m., the victim girl returned home crying from the house of the accused and informed her mother that the petitioner had hugged, kissed and removed her dress, and rubbed her private parts. When the victim's mother questioned the petitioner, the petitioner, along with his wife and son, locked their house and fled. Thereafter, the mother of the victim lodged a complaint on 20.12.2022, and a case in Crime No.17 of 2022 was registered under Section 8, 9(m) r/w 10 POCSO Act. The accused was arrested on 22.12.2022, who admitted about his act on the victim. Thereafter, following the record of statements from witnesses and the victim's statement under Section 164 of Cr.P.C., the charge sheet filed in this case.

9. During the trial, the prosecution examined P.W.1 to P.W.5 and marked Exhibits P1 to P10. On the defence side D.W.1 to D.W.3 were examined, and exhibits D1 to D3 were marked.

10. The trial Court, after careful consideration of all these aspects and also the material evidence, rightly found the petitioner guilty of the offences under Section 10 of POCSO Act and convicted and sentenced as stated above, which cannot be said to be erroneous and accordingly, he prayed for dismissal of this petition.

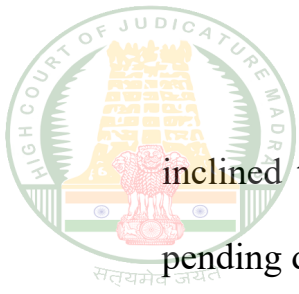


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11. Heard both sides and perused the materials available on record.

12. Considering the submission made on the learned counsel on either side and on perusal of the materials available on record, it is noted that even according to the de facto complainant, the houses are situated close to each other, and occurrence inside the petitioner's house are clearly visible from the outside. Furthermore, the victim stated that she was playing with the petitioner's son in the hall, and his son was very much available at the time when the petitioner is said to have hugged, kissed her and touched the private parts of the victim girl. Notably, despite the allegation that the victim girl suffered physical pain, she was not taken to any hospital for medical treatment. Additionally, the financial assistance and loans given by the petitioner to P.W.4 (the victim's father), stands proved through testimonies of D.W.1 to D.W.3 and Exhibits D.1 to D3. The records also confirm that the victim's mother accompanied her and answered on her behalf during the recording of the statement under Section 164 of the Cr.P.C.

13. In view of the above circumstances, the conviction has to be re-looked. This Court is of the view that since the petitioner has a good case for appeal and that there are arguable points available in the criminal appeal, I am



inclined to suspend the sentence imposed on the petitioner by the trial Court pending disposal of the appeal.

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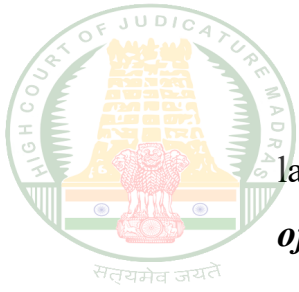
14. Accordingly, the sentence of imprisonment imposed on the petitioner is suspended and the Petitioner/Accused is to be enlarged on bail, pending disposal of the appeal, subject to the following conditions:-

(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 learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chennai;

(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]*.

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15. Accordingly, this Criminal Miscellaneous Petition stands ordered.

28-07-2026

Jd

Neutral Citation: Yes/No

Note: Issue order copy today i.e., on 28.07.2026.



To

1. Sessions Judge Special Court for Exclusive Trial of Cases under POCSO Act,
Chennai

2. The Central Prison, Puzhal.

3. The Inspector of Police,
W-13, All Women Police Station,
Washermenpet, Chennai District.
Crime.No.17 of 2022

4. The Public Prosecutor,
Madras High Court, Chennai.



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