



WEB COPY



Crl.M.P.No.12297 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2026

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl. M.P. No. 12297 of 2026

in

Crl. A. No. 853 of 2026

Dinesh

... Petitioner

Vs.

State rep., by
The Inspector of Police,
All Women Police Station,
Ammapet, Salem City,
Salem District.
(Crime No. 2 of 2022)

... Respondent

To suspend the sentence made in Spl.S.C.No.236 of 2022 on the file of learned Sessions Judge, Principal POCSO Court, Salem and enlarge the petitioner on bail pending disposal of the above appeal.

For Petitioner : Mr. J. Jayan

For Respondent : Ms. Sharada Vivek,
Government Advocate



Crl.M.P.No.12297 of 2026

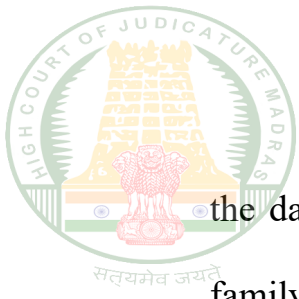
ORDER

WEB COPY

The petitioner / accused, who was convicted by the trial Court in Spl.S.C.No.236 of 2022 for offence under Section 7 of the POCSO Act and sentenced to undergo three years simple imprisonment and to pay a fine of Rs.1,000/-, has filed this suspension of sentence.

2. The case of the prosecution is that the victim girl, aged about 12 years and the petitioner is a neighbour, running a cloth ironing shop in the house of the defacto complainant, who is the father of the victim. On 14.01.2022, while all family members were asleep, the petitioner allegedly took the victim to the terrace, hugged her and kissed her. Based on the complaint lodged by the defacto complainant, a case in Crime No.2 of 2022 was registered for the offences under Section 366 IPC and Section 7 r/w 8 of the POCSO Act. On completion of the investigation, charge sheet filed in Spl.S.C.No.236 of 2022. During the trial, PW1 to PW9 were examined and Exs.P1 to P12 were marked.

3. The learned counsel for the petitioner contended that the petitioner and the victim were in love with each other. According to the petitioner, on 2/6



the date of the occurrence, both of them had gone to the terrace while the family members were asleep and were talking to each other. At that time, the defacto complainant came to the terrace and found them together. Thereafter, a false case was foisted against the petitioner as thought he had knocked on the door of the victim's house, the victim had opened the door in the middle of the night and accompanied him to the terrace, where he hugged and kissed her.

3.1. It was further contended that the petitioner was about 23 years at the relevant time and that the mutual attraction between them was on account of their age and attraction and they were only talking and not committed any sexual assault. He further submitted that the trial Court, acquitted the petitioner for the charge under Section 366 IPC, finding victim had voluntarily gone to terrace with the petitioner and there was no forceful abduction. According to the petitioner, the victim exaggerated a private moment due to the pressure exerted by her parents.

3.2. The learned counsel for the petitioner further submitted that, under Section 7 of the POCSO Act, the offence of sexual assault is attracted only when there is physical contact with sexual intent touching the vagina, penis, breast or anus of a child. In this case, even according to the



prosecution, the allegation is that petitioner hugged and kissed the victim.

Therefore, it was contended that the ingredients of Section 7 of the POCSO Act not attracted and conviction not sustainable.

4. The learned Government Advocate submitted that PW1, is the defacto complainant and father of the victim, lodged a complaint stating that the petitioner had taken the victim to the first floor, where he hugged and kissed her. On noticing that the victim was missing, PW1 went in search of his daughter and found the petitioner and the victim together. It was further submitted that the victim had clearly deposed about the overt acts committed by the petitioner and that the evidence of the other prosecution witnesses corroborated the prosecution case. Therefore, the trial Court considering all these aspects, had rightly convicted the petitioner. It was also submitted that the trial Court had suspended the sentence till 17.07.2026.

5. Considering the submissions and on perusal of the materials, this Court is of the view that the petitioner has made a case for appeal. Hence, this Court is inclined to grant the relief of suspension of sentence to the petitioner.



Crl.M.P.No.12297 of 2026

6. 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.5,000/- (Rupees Five thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

7. Further, the petitioner shall appear before the Trial Court once in three months at 10.30 a.m. on the first working day of the month, 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.

8. Accordingly, this Criminal Miscellaneous Petition is ordered.

15.07.2026

Neutral Citation: Yes/No
AT



WEB COPY



Crl.M.P.No.12297 of 2026

M.NIRMAL KUMAR, J.

AT

To

1.The Sessions Judge, Principal POCSO Court, Salem.

2.The Inspector of Police,
All Women Police Station,
Ammamet, Salem City,
Salem District.

3.The Public Prosecutor,
High Court of Madras.

Crl. M.P. No. 12297 of 2026 in
Crl. A. No. 853 of 2026

15.07.2026