



WEB COPY

CRL MP No. 15086 of 2
in Crl.A.No.1019 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. 15086 of 2026
in Crl.A.No.1019 of 2026**

Rajkumar,
S/o.Kannappan,
Residing at Pillayar Kovil Street,
V.Mettu Village, Veerichettipalli Post,
Kudiyatham Taluk,
Presently confined at
Central Prison, Vellore.

..Petitioner(s)

Vs

State of Tamil Nadu
Represented by
The Inspector of Police,
Paradarami Police Station,
Vellore District.
Crime No.107 of 2018.

..Respondent(s)

PRAYER: Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, 2023, praying to suspend the substantive sentence of imprisonment imposed upon the petitioner/Appellant by the judgment dated 01.04.2026 made in Spl.S.C.No.111 of 2019 on the file of the learned Special Court for Exclusive Trial of Cases under the Protection of Children from Sexual Offences Act, Vellore, pending disposal of the Criminal Appeal, Enlarge the petitioner/Appellant on bail on such terms and conditions as this Honourable Court may deem fit and proper.



WEB COPY



For Petitioner(s):

Mr.K.Kishore Kumar

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 01.04.2026 passed in Spl.S.C.No.111 of 2019 by the learned Special Court for Exclusive Trial of Cases under the Protection of Children from Sexual Offences Act, Vellore, and to enlarge the petitioner on bail pending disposal of Criminal Appeal No.1019 of 2026 before this Court.

2. The conviction and sentence imposed on the petitioner/appellant vide the impugned judgment dated 01.04.2026 are as follows:

Section	Imprisonment
366 of IPC	Sentenced to undergo Rigorous Imprisonment for a period of five years and to pay a fine of Rs.10,000/-, and in default of payment of fine, the accused shall undergo further two months of rigorous imprisonment.
5(1), 5(n) r/w 6 of POCSO Act	Sentenced to undergo Imprisonment for a period of ten years and to pay a fine of Rs.2,00,000/-, and in default of payment of fine, the accused shall undergo further two years of rigorous imprisonment.
3(a) r/w 4(2) of Protection of Children From Sexual Offences Act 2012	Sentenced to undergo Imprisonment for a period of twenty years and to pay a fine of Rs.1,000/-, and in default of payment of fine, the accused shall undergo further three months of simple imprisonment.



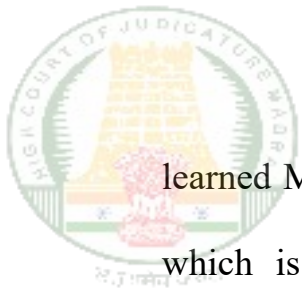
3. Aggrieved by the said conviction and sentence, the petitioner has preferred Crl.A.No.1019 of 2026 before this Court, along with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

4. The case of the prosecution is that the victim girl, whose date of birth is 02.06.2001, was studying in Class XII and was residing with her parents at V. Mottur Village, Gudiyatham Taluk, Vellore District. During the period of occurrence, the victim was below 18 years of age. The accused, Rajkumar, was known to the victim and was residing in the same village. He used to frequently visit the house of his elder sister, which was situated near the residence of the victim. The accused used to follow the victim while she was going to school and repeatedly profess his love for her, stating that he intended to marry her. However, the victim refused his proposal. On 23.06.2018, at about 7.30 p.m., the co-accused, Sudhakar, took the victim from a shop to the Paradarami Bus Stand, informing her that Rajkumar wanted to speak with her. When the victim reached the bus stand, Rajkumar was present there and again told her that he would marry her. Though the victim refused to marry him, the accused took her from Paradarami Bus Stand to Chittoor, and thereafter they proceeded to Tirupati and Renigunta. At Renigunta, the accused took a rented house for a monthly rent of approximately Rs.3,300/- and stayed there along with the victim. During their stay in the rented house, the accused repeatedly assured the victim that he would marry her and, on such assurance, had sexual intercourse



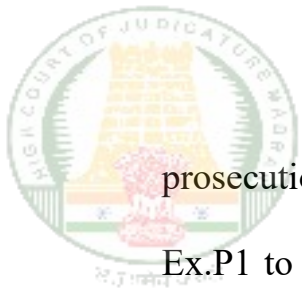
with her on several occasions. The victim and the accused continued to reside together at Renigunta for nearly twenty days. It is the further case of the prosecution that the victim subsequently came to know that her parents had lodged a complaint regarding her absence. The victim then informed the accused that she wished to return to her home. Accordingly, on 13.07.2018, the victim and the accused left Renigunta and returned to the Paradarami Bus Stand, where they were apprehended by the police. Hence the case.

5. The learned counsel for the petitioner submitted that the petitioner and the victim are neighbours and relatives and had a love affair. The parents of the victim did not approve of the same and hence made arrangements for the victim's marriage against her wishes. The victim called the petitioner and forced him to take her away, threatening that she would otherwise end her life. Under those circumstances, the petitioner left with no other option took her away. The victim's parents had lodged a complaint alleging that the petitioner had kidnapped the victim girl along with jewels and valuables, and the petitioner's entire family members, including his parents and sister, were initially shown as accused, though they were later dropped from the case. When she was examined by the doctor, the victim informed them that she was a major and had completed 18 years of age. Even before the doctor, she stated that her age was 18 years. Further, the radiological report (Ex.P6) confirms that the victim is above the age of 18 years but below 21 years. When the victim was examined before the



learned Magistrate under Section 164 of Cr.P.C., she gave her age as 18 years, which is recorded as Ex.P2. The respondent had not produced the birth certificate or acceptable school records to show that the victim was a minor. On the contrary, the prosecution produced the study, attendance, and conduct certificate dated 18.01.2019, obtained after registration of the case, in which the victim's date of birth is handwritten as 02.06.2001. The marking of this document was strongly objected to by the defense, and the Investigating Officer also admitted the same. PW10, the school teacher, merely identified Ex.P7 and did not state anything more. Further, the Trial Court erroneously relied upon Ex.P14, which is a photostat copy of the mark statement instead of the original, and the concerned teacher was never confronted with Ex.P14 as it was marked solely through the Investigating Officer.

6. The learned Government Advocate (Crl.Side) appearing for the respondent police filed objections and submitted that, upon completion of the investigation, the then Inspector of Police filed a final report against the accused for the offences punishable under Section 366 of the Indian Penal Code and Sections 5(l) and 5(n) read with Section 6 of the Protection of Children from Sexual Offences Act, 2012. The case was thereafter taken on file as Spl.S.C. No.111 of 2019 on the file of the Special Court for Exclusive Trial of Cases under the Protection of Children from Sexual Offences Act, Vellore. It is further submitted that in order to establish the charges against the accused, the



prosecution examined 13 witnesses, namely P.W.1 to P.W.13, and marked Ex.P1 to Ex.P14. On the side of the defence, no witnesses were examined and no exhibits were marked. It is further submitted that in this case, PW2 is the victim girl who clearly deposed that her date of birth is 02.06.2001 and that she studied up to Class XII. She testified that the petitioner used to follow her, forced his love upon her, and compelled her to come out of her house to marry him without realizing the seriousness of the matter. She went to the bus stand at Chittoor, from where she was forcibly taken to Renigunta where they stayed in a rented house until 13.07.2018 when the police secured them. The prosecution contends that during this period she was subjected to penetrative sexual assault, which is confirmed by the medical officer, PW9. PW9 and PW11 are the doctors who examined her, and PW10 is the Headmistress who produced the school certificate to confirm that the victim was a minor. Thus, the trial court has rightly convicted the accused.

7. This Court has carefully considered the rival submissions and perused the trial materials available on record.

8. In this case, there was a love affair between the petitioner and the victim girl, and the victim admits to the love affair. Both were staying together at Renigunta from 23.06.2018 to 13.07.2018, during which time she was moving freely and had not made any complaints to neighbours or to anyone that



she was forcibly taken and confined. Furthermore, the victim, before the learned Magistrate and before the doctor, confirms that she was 18 years of age. The radiologist in his report (Ex.P6) also confirmed that the victim is aged between 18 to 21 years. Though the prosecution claims that Ex.P7 confirms her date of birth as 02.06.2001, a perusal of Ex.P7 shows that this date was handwritten subsequently, and no corroborative records produced to confirm the entry. The mark statement (Ex.P14) is also a photostat copy which was marked through the Investigating Officer not by the school authorities. In view of the above circumstances, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

9. Accordingly, this Criminal Miscellaneous Petition stands allowed and the sentence imposed on the petitioner is suspended till the disposal of the above Criminal Appeal and the petitioner is ordered to be released on bail on 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 Special Court for Exclusive Trial of Cases under the Protection of Children from Sexual Offences Act, Vellore.

(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]***.

10. Accordingly, this Criminal Miscellaneous Petition stands ordered.

24-08-2026

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

CDA



WEB COPY

CRL MP No. 15086 of 2
in CrI.A.No.1019 of 2



To

- 1.The Special Court for Exclusive Trial of Cases
under the Protection of Children from Sexual Offences Act, Vellore.
- 2.The Inspector of Police,
Paradarami Police Station,
Vellore District.
- 3.The Central Prison, Vellore.
- 4.The Public Prosecutor,
High Court of Madras.



WEB COPY

CRL MP No. 15086 of 2
in CrI.A.No.1019 of 2



M.NIRMAL KUMAR J.

CDA

**CRL MP No. 15086 of 2026
in CrI.A.No.1019 of 2026**

24-08-2026