



WEB COPY

CRL MP No. 13993 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. 13993 of 2026

AND

CRL A NO. 945 OF 2026

Elumalai
S/o.Nadesan,
Mariamman Koil Street,
Empalam Village,
Melmalayanur Taluk,
Villupuram District.

..Petitioner(s)

Vs

State represented by, The Inspector of Police,
All Women Police Station,
Gingee,
Villupuram District.
Crime No.37/2021

..Respondent(s)

CRL A No. 945 of 2026

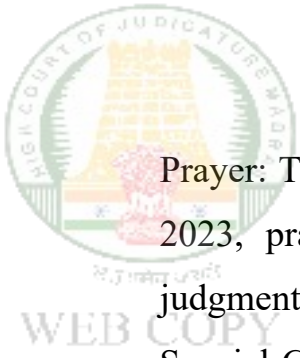
Elumalai
S/o.Nadesan,
Mariamman Koil Street,
Empalam Village,
Melmalayanur Taluk,
Villupuram District.

..Appellant(s)

Vs

State represented by, The Inspector of Police,
All Women Police Station,
Gingee,
Villupuram District.
Crime No.37/2021

..Respondent(s)



Prayer: This Criminal Miscellaneous Petition filed under Section 448 of BNSS, 2023, praying to suspend the sentence imposed against the Petitioner by judgment dated 25.06.2026 in Spl.S.C.No.61 of 2022 passed by the learned Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram and enlarge the Petitioner on bail till the disposal of the above Criminal Appeal.

For Petitioner(s): Mr.R.Sasikumar

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

Order

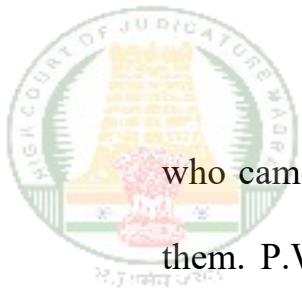
The petitioner/Accused in Spl.S.C.No.61 of 2022 was convicted by the Trial Court, by the judgment dated 25.06.2026, for the offence under Sections 9(m) r/w 10 of POCSO Act, 2012 (2 counts) and Section 341 of I.P.C. and sentenced to undergo seven years rigorous imprisonment and to pay a fine amount of Rs.10,000/- for each count, in default, to undergo six months simple imprisonment for each count, for the offence under Section 9(m) r/w 10 of POCSO Act, 2012 (2 counts) and sentenced to undergo one month simple imprisonment, for the offence under Section 341 of I.P.C. The sentences were ordered to be run consecutively. 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 is aged about 70 years and he had been falsely implicated in this case.

Since there was some dispute with the de facto complainant/PW3, it was falsely projected as though the petitioner hugged and kissed PW1, the first victim and PW2, the second victim, PW2 ran away and PW1 was pulled down, undressed and the petitioner laid on her. There is severe contradictions in the evidence between PW1 and PW2. Further, the projected eyewitness/PW7 confirms that he is not supported the case of the prosecution, which was further confirmed by the evidence of PW3, who states that PW7 not stated anything to her and he was not present in the scene of occurrence. The petitioner is said to have undressed the victim and lied on her. It is admitted that the place is thronged with youngsters and villagers, who used to play and collect almond nuts. The trial Court failed to consider 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 there are two victims in this case. Both the Victim girls are aged about 9 years (Victim1/ PW1's Date of Birth 20.08.2012 & Victim 2/PW 2's-Date of Birth 05.07.2012). On 26.09.2021 at about 5.00 P.M., when both the victim girls were playing on the backside of Ramu and Athilakshmi's house situated at Mariyamman Temple street of Empalam Village and were picking almond under an almond tree, the petitioner



who came there, with sexual intention hugged both the victim girls and kissed them. P.W.2 escaped from the petitioner and lurked there. P.W.1 was caught hold by the petitioner wrongfully and the petitioner removed the dress of the victim child/P.W.1 and disrobed himself and laid on her. Hence the case.

4. She further submitted that based on the above complaint, a case was registered in All Women Police Station -Gingee, in Crime No. 37 of 2021 under Sections 7, 8 of POCSO Act & 341, 354 (A), 506(1) of I.P.C. on 27.09.2021 by the Inspector of Police, who took up the case for further investigation. She further submitted that during the course of investigation the respondent police produced the Victim girls before the learned Juridical Magistrate, Gingee for obtaining the 164 Cr.P.C Statements and the same were recorded on 22.10.2021. [Ex.P.1 and Ex.P.2]. During the course of investigation, based on the material evidence and witnesses statement, the respondent police altered the Section to 354-A, 342, 506(ii) of IPC & 9(m) r/w 10 of POCSO Act (two Counts). After completion of detailed investigation, on 26.11.2021 the Inspector of Police filed the charge sheet against the petitioner before the Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram and the same was taken on file vide Spl.S.C.No.61 of 2022 on 24.03.2022. She further submitted that during trial, 12 witnesses examined and 15 exhibits marked. In this case, both PW1 and PW2 of 9 years old were sexually assaulted by the petitioner. PW3 and PW4 are the parents, who confirmed the same. Considering all these



facts, the Trial Court had rightly convicted the petitioner. Hence, she prayed to dismiss the petition.

WEB COPY

5. Considering the submissions made and on perusal of the materials, it is seen that PW1 and PW2 are the victims. PW2 states that after the petitioner kissed her, she fled from the scene and went to inform PW3. PW1's evidence is that she was kissed, forced down and her dress was removed and the petitioner undressed him and laid on her and after PW7 coming to the place of occurrence she was relieved. In this case, PW7 not supported the prosecution case and he was not present in the scene of occurrence, which was confirmed by PW3. PW1's evidence is with some embellishments. In view of the same, the conviction of the petitioner requires reconsideration.

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.10,000/- (Rupees Ten 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 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.

WEB COPY

8. 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].

9. Accordingly, this Criminal Miscellaneous Petition is ordered.

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,
Villupuram.

2. The Inspector of Police,
All Women Police Station,
Gingee,
Villupuram District.

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

4. The Public Prosecutor,
High Court, Madras.



WEB COPY

CRL MP No. 13993 of 2



M.NIRMAL KUMAR J.

RSI

**CRL MP No. 13993 of 2026
in
CRL A NO. 945 OF 2026**

24-08-2026