

*Crl.MP(MD) No.12595 of 2026 in
Crl.A(MD) No.742 of 2026*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :06.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.12595 of 2026
in Crl.A.(MD)No.742 of 2026

Karthick

... Petitioner

Vs.

1.The State of Tamil Nadu,
Represented by its
The Inspector of Police,
SIPCOT Police Station,
Sivagangai District.

2.XXXXXX

XXXXXX

Sivagangai District.

... Respondents

Prayer: Petition filed under Section 430(1) of BNSS to suspend the sentence imposed on the petitioner / appellant / sole accused, namely Karthick, S/o.Ramamoorthy passed by the learned Special Court for Exclusive Trial under POCSO Act Cases, Sivagangai in Spl.S.C.No.34 of 2020, dated 28.11.2025 and enlarge the petitioner on bail, pending disposal of the Criminal Appeal.



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For Petitioner : Mr.M.Jegadeesh Pandian
For Respondents : Mr.A.Robinson,
Government Advocate (Crl. Side)
for R1

ORDER

The petitioner, an accused in Spl.S.C.No.34 of 2020, on the file of the learned Sessions Judge, Special Court for Exclusive Trial of POCSO Act Cases, Sivagangai was found guilty by the trial Court and was convicted and sentenced as under:-

Sl.No	Sections	Punishment	Fine amount	Default
1	363 IPC	3 years RI	Rs.5,000/-	6 months SI
2	5(1) r/w 6 of POCSO Act	30 years RI	Rs.50,000/-	6 months SI

As against the conviction and sentence imposed by the trial Court in Spl.S.C.No.34 of 2020, dated 28.11.2025, the petitioner has filed a Criminal Appeal in Crl.A(MD)No.742 of 2026 and the same was admitted by this Court on 30.06.2026. The petitioner has also moved this application to suspend the sentence imposed on him by the trial Court.



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2. The case of the prosecution is that on 04.08.2020, at about 08.00 pm, when the victim child was returning from her work, the petitioner took her to a secluded place and had physical relationship with her for five times. Hence, the case.

3.1. The learned counsel appearing for the petitioner submits that the original complaint lodged by PW-2 on 05.08.2020 was only to the effect that her minor daughter, aged about 15 years, had gone missing from 04.08.2020 and that she suspected one Karthick to be the reason for her missing. Based on the said complaint, a case was initially registered under Section 366-A IPC. On the very same day, PW-1/victim was secured and her statement was recorded. In her earliest statement, she did not make any allegation of penetrative sexual assault against the petitioner. However, in a subsequent statement alleged to have been recorded on the same day, she alleged that the appellant had subjected her to penetrative sexual assault on the promise of marriage. Therefore, the presumption under Section 29 of the POCSO Act cannot be invoked against the appellant.



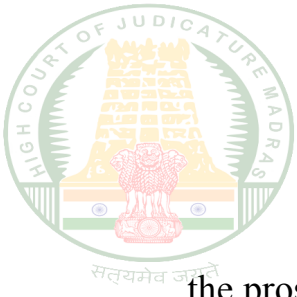
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3.2. The learned counsel further submits that the evidence of PW-1 is not corroborated by the medical evidence. PW-1 was examined by PW-9, before whom she stated that she had not been subjected to penetrative sexual assault by the appellant. According to him, Ex.P9 does not support the prosecution case. The complaint was only with regard to the missing of PW-1 and she was not secured from the custody of the appellant. Further, PW-1 cannot be treated as a sterling witness, as her version regarding the occurrence is inherently improbable and not trustworthy.

3.3. The learned counsel also submits though PW-11/Headmaster produced Ex.P11 mentioning the date of birth of the victim as 17.07.2005, neither the birth certificate nor the SSLC certificate was produced. Hence, according to him, the prosecution failed to establish that the victim was a child so as to attract the provisions of the POCSO Act.

3.4. The learned counsel finally submits that PW-2, being the mother of the victim, is only a hearsay witness and that her evidence does not corroborate the evidence of the other prosecution witnesses. Therefore,



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the prosecution has failed to prove the charges, including the offence under Section 363 IPC, beyond reasonable doubt.

4. The learned Government Advocate appearing for the first respondent submits that the petitioner chose to cross-examine the victim child only after a lapse of two years from the date of her chief examination and, during the course of such cross-examination, she was won over. However, in her chief examination, the victim child had clearly spoken about the occurrence. According to him, the victim was aged about 15 years at the time of the occurrence and, as per her chief examination, the petitioner repeatedly had physical relationship with her.

5. This Court has considered the rival submissions made on either side and also perused the materials placed on record.

6. The entire prosecution case rests upon the statement of the victim. However, the victim herself has not supported the prosecution case during her cross-examination. The petitioner was aged about 19 years and the victim child was aged about 15 years at the time of the occurrence. It is



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also another case of "Romeo and Juliet". The petitioner has been in judicial custody for the past nine months.

7. The petitioner has raised certain arguable points, which can be considered only during the final hearing of the appeal. However the appeal could not be taken up for final hearing for want of time. Considering the points raised by the petitioner, his period of incarceration and for the reasons that the appeal could not be taken up immediately, this Court is inclined to suspend the sentence imposed on the petitioner.

8. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioner is ordered to be enlarged on bail on the following conditions:-

- i. The petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of POCSO Act Cases, Sivagangai.



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- ii. The petitioner and the sureties shall submit a copy of their Aadhaar Card or any other identity card issued by the Government in proof of their residence address, before the trial Court as well as before the respondent Police. In the event, if there is any change of address, the same shall be intimated to the respondent Police without fail.
- iii. The petitioner shall stay at Tiruppur and report before the Inspector of Police, Tiruppur North Police Station, daily at 10.30 a.m., until further orders.
- iv. The petitioner and the sureties shall file an affidavit of undertaking before the respondent police that the petitioner will not involve in any offence in future and that the petitioner will not visit occurrence place or disturb the victim child pending appeal.
- v. In the event, if the petitioner has violated any of the above conditions, it is open to the respondent police to file an application to cancel the bail granted to him.

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To

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1.The learned Sessions Judge,
Special Court for Exclusive Trial of POCSO Act Cases,
Sivagangai.

2.The Inspector of Police,
SIPCOT Police Station,
Sivagangai District.

3.The Inspector of Police,
Tiruppur North Police Station,
Tiruppur.

4.The Superintendent,
Central Prison,
Madurai.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.,

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