



Crl.M.P.(MD)No.11526 of 2026

in Crl.A.(MD)No.693 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.07.2026**

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THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.11526 of 2026

in Crl.A.(MD)No.693 of 2026

Mahesh @ Maheshwaran

... Petitioner/
Sole accused

versus

State of Tamil Nadu,
Rep. by its Inspector of Police,
All Women Police Station,
Nagercoil,
Kanyakumari District.

... Respondent

Petition filed under Section 415 (2) of BNSS, seeking to suspend the sentence passed by the Special Court for Exclusive Trial of Cases under the POCSO Act, Nagercoil, in Spl.S.C.No.72 of 2020 dated 14.07.2025.

For Petitioner : Mr.K.Karnan

For Respondent : Mrs.V.Moushica,
Government Advocate (Crl. Side)



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ORDER

The petitioner is the sole accused in Spl.S.C.No.72 of 2020 on the file of the Special Court for Exclusive Trial of Cases under the POCSO Act, Nagercoil. He was prosecuted for the offence under Section 363 IPC and Section 5(l) r/w. Section 6 of POCSO Act and Section 9 of the Prohibition of Child Marriage Act that he had abducted the victim child, tied thalli and thereafter, committed sexual assault on the victim girl. In conclusion of trial, the trial Court, by its Judgment dated 14.07.2025, found the petitioner guilty for the offence for the offence under Section 363 IPC and Section 5(l) r/w. Section 6 of POCSO Act and Section 9 of the Prohibition of Child Marriage Act and convicted and sentenced him as under:

Sl.No	Sections	Punishment	Fine amount	Default
1.	363 IPC	5 years rigorous imprisonment	Rs.1,000/-	6 months simple imprisonment
2.	5(l) r/w. 6 of POCSO Act	20 years rigorous imprisonment	Rs.1,000/-	6 months simple imprisonment
3.	9 of Prohibition of Child Marriage Act	1 year rigorous imprisonment	Rs.1,000/-	3 months simple imprisonment



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Challenging the judgment of conviction, the petitioner has preferred an appeal before this Court in Crl.A.(MD)No.693 of 2026 and the same has been admitted by this Court on 19.06.2026. Along with the appeal, the petitioner has moved this petition seeking to suspend the sentence imposed by the trial Court.

2. The learned counsel appearing for the petitioner submits that the petitioner had a love affair with the victim child and on the compulsion of the victim child, he eloped with her from Kanyakumari to Tiruppur, where, they stayed for some time and also got married and thereafter, they had a physical relationship. According to the learned counsel, the petitioner, without knowing the consequences and without understanding the age of the victim, had committed the offence. The learned counsel, by referring to the statement of the victim child recorded under Section 164 Cr.P.C. submits that the victim child has not stated anything against the petitioner and she also admitted that she had a love affair with the petitioner and she voluntarily went along with him. He further submits that the petitioner has no parents and is under the custody of the grandmother, who is aged about 75 years and his grandmother is in a serious medical condition. Therefore, he seeks to grant bail to the petitioner, by suspending the sentence.



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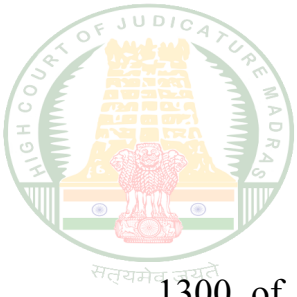
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3. The learned Government Advocate (Crl. Side) submits that the age of the victim child was 14 years at the time of occurrence. The petitioner has already involved in a similar offence with another minor girl, for which, a case has been registered as against the petitioner in Cr.No.12 of 2018 on the file of the All Women Police Station, Nagercoil and he was found guilty and convicted by the Special Court in Spl.S.C.No.24 of 2020. This is the second offence committed by the petitioner. Therefore, the learned Government Advocate (Crl. Side) opposed this petition to suspend the sentence.

4. This Court considered the rival submissions made and also perused the materials placed on record.

5. The victim child in her evidence has stated that she had a love affair with the petitioner, voluntarily went along with him, married him and thereafter, they had a physical relationship. The petitioner has committed a similar offence in Crime No.12 of 2018, wherein, he was prosecuted under POCSO Act in Spl.S.C.No.24 of 2020 and he was convicted by the trial Court, by Judgment dated 23.06.2025 and the appeal preferred by the petitioner in Crl.A.(MD)No.



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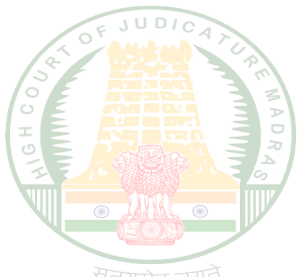
1300 of 2025 was allowed and the Judgment passed by the trial Court in Spl.S.C.No.24 of 2020 was set aside.

6. In this case, the victim child has stated that she had a love affair with the petitioner, voluntarily went along with him, married him and thereafter, they had a physical relationship, without knowing the consequences. Therefore, the petitioner alone cannot be blamed. Further, the petitioner is in jail for the past two years.

7. Considering the available materials and the period of incarceration undergone by the petitioner, this Court is inclined to suspend the sentence imposed by the trial Court against 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 Rs.25,000/- (Rupees twenty five thousand only) with two sureties each for a like sum to the satisfaction of the Special Court for Exclusive Trial of Cases under the POCSO Act,



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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 not misuse the liberty granted to him by indulging in any further offence.

(iv) The petitioner shall stay at Tiruppur and report before the Inspector of Police, Tiruppur South Police Station, daily twice, i.e. morning at 8.00 a.m. and evening at 6.00 p.m. until further orders.

(v) The petitioner along with the sureties shall file an affidavit before the respondent Police that he will not visit the occurrence village and will not disturb the victim and her family at any point of time.

(vi) If the petitioner violates 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

1. The Special Court for Exclusive Trial of Cases
under the POCSO Act,
Nagercoil.
2. The Superintendent,
Central Prison,
Palayamkottai, Tirunelveli.
3. The Inspector of Police,
Tiruppur South Police Station,
Tiruppur.
4. The Inspector of Police,
All Women Police Station,
Nagercoil,
Kanyakumari District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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