

CrI.MP(MD)No.3988 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CrI.M.P.(MD)No.3988 of 2026
in CrI.A.(MD)No.257of 2026

P.Balu

... Petitioner

Vs.

The State represented through
The Inspector of Police,
Jeyamangalam Police Station,
Theni.
(Crime No.40 of 2022)

... Respondent

Prayer: Petition filed under Section 430(1) of BNSS to suspend the execution of sentence passed by the Principal Special Court, Theni dated 20.03.2024 and made in S.C.No.115 of 2023 and to order to release the petitioner/appellant/accused on bail pending disposal of the appeal.

For Petitioner : Mr.K.M.Mohammed Ali

For Respondent : Mr.V.Moushica,
Government Advocate (CrI. Side)



Crl.MP(MD)No.3988 of 2026

ORDER

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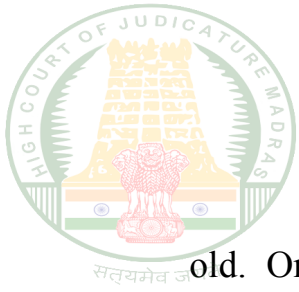
The petitioner, an accused in S.C.No.115 of 2023, on the file of the Principal Special Court, Theni was found guilty by the trial Court and was convicted and sentenced as under:-

Sl.No	Sections	Punishment	Fine amount	Default
1	342 IPC	One years RI		
2	6 of POCSO Act	20 years RI	Rs.25,000/-	One year RI
3	376(2) IPC	10 years RI	Rs.25,000/-	One year RI

As against the conviction and sentence imposed by the trial Court in S.C.No.115 of 2023, dated 20.03.2024, the petitioner has filed a Criminal Appeal in Crl.A(MD)No.257 of 2026 and the same was admitted by this Court on 20.02.2026. The petitioner has also moved this application to suspend the sentence imposed on him by the trial Court.

2.The case of the prosecution is that the accused abused the victim child/P.W.1 for several times. Hence, the case.

3.1.The learned counsel for the petitioner submits that the petitioner is aged about 77 years. He was prosecuted when he was 75 years



Crl.MP(MD)No.3988 of 2026

WEB COPY

old. On the complaint preferred by the victim girl, the case has been registered. Even according to the prosecution, the victim girl was aged about 17 years at the time of the occurrence. However, the prosecution has not established the age of the victim child. They have produced only a letter issued by the Headmaster to establish the age, instead of marking any of the school certificates to prove that the victim girl was aged about 17 years.

3.2.The learned counsel further submits that, when the victim child was examined under Section 164 Cr.P.C., she had stated that she is having a relationship with some other persons also and that some other persons had also abused her. There was no injury found on the victim child. Further, the prosecution has not established the date of occurrence and the age of the victim. In spite of the above, the trial Court found the petitioner guilty, convicted and sentenced him. The learned counsel further submits that the petitioner has been in jail from the date of conviction, namely 20.03.2024, and therefore, he may be considered for grant of bail.

4.The learned Government Advocate(Crl.side) submits that the victim child was 17 years old at the time of the occurrence. The petitioner, being a 75-year-old man, had taken advantage of this position and abused

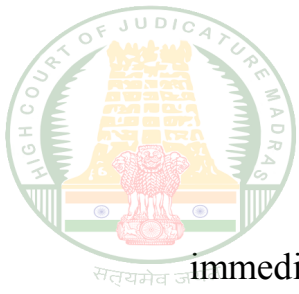


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the victim child. According to the prosecution, P.W.3, an independent witness, has witnessed and spoken about the occurrence apart from the evidence of P.W.1. Therefore, the learned Government Advocate(Crl.side) submits that there is a specific case available as against the petitioner.

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

6.The prosecution was laid under the POCSO Act under the impression that the victim child was aged about 17 years at the time of the occurrence. However, the prosecution has not proved the age of the victim child. The prosecution has relied upon a letter, based on which the trial Court proceeded, instead of ascertaining and marking the relevant school records. A perusal of the statement recorded under Section 164 Cr.P.C. would reveal that the victim child had stated that she was in relationship with some other persons also. The trial Court proceeded mainly based on the statement of the victim and the evidence of P.W.3. The learned counsel for the petitioner states that there is a motive for P.W.3 as against the petitioner. The grounds raised by the petitioner can be appreciated only at the time of final hearing of the appeal, which could not be taken up



CrI.MP(MD)No.3988 of 2026

immediately owing to the heavy pendency of cases.

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7.The petitioner has been in jail from the date of conviction and was also in jail even prior thereto. It is also submitted that the victim had earlier lodged a similar complaint against another person and that the same was subsequently withdrawn.

8. 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.

9.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 Principal Special



Crl.MP(MD)No.3988 of 2026

Court, Sessions Judge, Theni.

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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 Madurai and report before the Inspector of Police, Othakkadai Police Station daily at 10.30 a.m., until further orders.

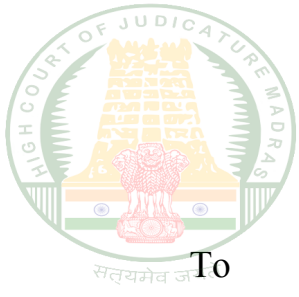
(iv)The petitioner and the sureties shall file an affidavit of undertaking before the respondent police that the petitioner will not involve in any offence in future and that the petitioner will not visit occurrence place or disturb the victim child pending appeal.

(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.

27.07.2026

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Crl.MP(MD)No.3988 of 2026

To

WEB COPY

1.ThePrincipal Special Court, Sessions Judge, Theni.

2.The Inspector of Police,
Jeyamangalam Police Station,
Theni.

3.The Inspector of Police,
Othakkadai Police Station,
Madurai.

4.The Superintendent,
Central Prison,
Madurai.

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



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CrI.MP(MD)No.3988 of 2026

B.PUGALENDHI, J.,

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CrI.MP(MD) No.3988 of 2026
in
CrI.A(MD) No.257of 2026

27.07.2026