



CRL MP(MD). No.2143 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 06.08.2026

CORAM

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

CRL MP(MD)No.2143 of 2026

in

CRL A(MD)No.154 of 2026

Ajith Kumar

... Petitioner

Vs

The State of Tamilnadu, Rep. by
The Inspector of Police,
Singambunari Police Station,
Sivagangai District.
Cr.No.22/2021.

... Respondent

This petition filed under Section 430(1) of BNSS to suspend the sentence imposed against the petitioner in Spl.SC.No.33 of 2021 dated 26.09.2025 passed by the learned Additional Special Judge, POCSO Act, Sivagangai and enlarge the petitioner on bail pending disposal of the above appeal.

For Petitioner : Mr.G.Gomathisankar

For Respondent : Mr.V.Shathurthi Raja,
Government Advocate (Crl. Side)

ORDER



CRL MP(MD). No.2143 of 2026

The petitioner is the accused in Spl.S.C.No.33 of 2021 on the file of the Special Court for Exclusive trial of cases under POCSO Act, Sivagangai. He was prosecuted for the offence under Sections 366, 450 IPC and Sections 5(I) r/w. 6 and 5(j)(ii) r/w. 6 of POCSO Act that he had trespassed into the victim's house and committed penetrative sexual assault on the minor victim girl aged about 16 years and made her pregnant. The trial Court, by its Judgment dated 26.09.2025, found the petitioner guilty for the offence under Sections 363, 450 IPC and Sections 5(l) r/w. 6 and 5(j)(ii) r/w. 6 of POCSO Act and convicted and sentenced him as follows:

Sl.No.	Sections	Punishment	Fine amount	Default
1.	363 IPC	3 years RI	Rs.500/-	2 months SI
2.	450 IPC	5 years RI	RS.500/-	2 months SI
3.	5(l) r/w. 6 of POCSO Act	20 years RI	Rs.1,000/-	1 year SI
4.	5(j)(ii) r/w. 6 of POCSO Act	20 years RI	Rs.1,000/-	1 years SI

Challenging the Judgment of conviction and sentence, the petitioner has filed a criminal appeal before this Court in Crl.A.(MD)No.154 of 2026

2/7



CRL MP(MD). No.2143 of 2026

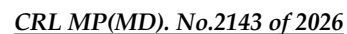
and the same has been admitted by this Court on 02.02.2026. Along with the appeal, the petitioner has moved this petition seeking to suspend the sentence.

2. The learned counsel for the petitioner has raised the following grounds for grant of suspension of sentence.

(i) The trial Judge failed to appreciate the statement of the victim girl recorded u/s.164 Cr.P.C. in its proper perspective. According to the victim girl, she had acquaintance with the petitioner for about 8 years and then, she had love affairs for about 1 ½ years, during which, they had a physical relationship, resulting in her pregnancy. Nowhere, the victim girl states that the petitioner had kidnapped her by trespassing into her house and committed penetrative sexual assault. On this point, the impugned Judgment is liable to be set aside.

(ii) The trial Court is completely influenced by the statutory presumption envisaged under Sections 29 and 30 of POCSO Act, by ignoring the initial proof of foundational facts.

(iii) The trial Court failed to see the conduct of the victim girl. The occurrence took place on 20.06.2020 and such a stoic silence would go to show that it is not a case of penetrative sexual assault, instead, it is a case



(iv) The trial Court failed to consider the safe custody of DNA samples and its preservation and also the manner in which the samples were obtained. Even assuming that the DNA test is positive, it is a scientific evidence and the same could not be pressed into service without the substantive evidence of the victim girl. However, the substantive evidence of the victim girl is absent and the statement recorded by the Judicial Magistrate is contrary to the basic facts of the prosecution case.

(v) The trial Court traversed into the extraneous materials, ie. hearsay and scientific evidence, since the victim girl was not available to give evidence due to her death. Therefore, the impugned judgment of the trial Court is not sustainable in law.

(vi) The petitioner was in jail from the date of conviction ie. from 26.09.2025.



CRL MP(MD). No.2143 of 2026

6. Considering the available materials, the statement of the victim girl recorded under Section 164 Cr.P.C., the evidence of P.W.1-mother of the victim girl and Ex.P15 - DNA test report, this Court is not inclined to suspend the sentence imposed by the trial Court. Accordingly, this Criminal Miscellaneous Petition is dismissed.

06.08.2026

ogy

To

1. The Special Court for Exclusive trial of
cases under POCSO Act,
Sivagangai.
2. The Inspector of Police,
Singambunari Police Station,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CRL MP(MD). No.2143 of 2026

B.PUGALENDHI, J.

ogy

CRL MP(MD)No.2143 of 2026
in
CRL A(MD)No.154 of 2026

06.08.2026