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Crl.MP.No.10776 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2025

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.M.P.No.10776 of 2025

in

Crl.A.No.597 of 2025

Shayeth @ Nazeem

...Petitioner

Vs.

State rep. By
The Inspector of Police,
Ambur All Women Police Station,
Thirupathur District
(crime No.7 of 2022)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, 2023, to suspend the sentence of the petitioner/appellant in Special Sessions Case No.64 of 2024 on the file of District and Sessions Judge, Thirupathur, Thirupathur District dated 26.02.2025 pending disposal of the above criminal appeal.



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For Petitioner : Mr.P.Praveen Kumar

For Respondent : Mr.S.Raja Kumar,
Additional Public Prosecutor

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner, praying to suspend the sentence of the petitioner/appellant in Special Sessions Case No.64 of 2024 on the file of District and Sessions Judge, Thirupathur, Thirupathur District dated 26.02.2025 pending disposal of the above criminal appeal.

2. The petitioner is the accused in Special Sessions Case No.64 of 2024 on the file of District and Sessions Judge, Thirupathur, Thirupathur District. He was found guilty of the offences under Sections 5(1), 5(j)(ii) r/w 6 of POCSO Act and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1	Sections 5(1), 5(j)(ii) r/w 6 of POCSO Act	to undergo rigorous imprisonment for a period of 20 years and to pay fine of Rs.5,000/-, in default to undergo simple imprisonment for three years

Aggrieved by the same, the petitioner has filed this appeal along with the



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present miscellaneous petition.

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3. The learned counsel for the petitioner/accused would submit that there are arguable points available in the Criminal Appeal and the petitioner/accused has got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence imposed against the petitioner/accused may be suspended. He would submit that the petitioner is ready to abide the condition imposed by this Court.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondent/State raised serious objection for allowing this petition. Further, he would contend that the evidences recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. According to him, interference of this Court is not necessary in the findings arrived at by the trial Court.

5. Heard the learned counsel appearing on either side and also perused the materials placed on record.



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6. The petitioner has made out prima facie case to allow this petition. Further, the victim girl and his father – defacto complainant turned hostile before the trial court. The trial court convicted the petitioner only on the basis of DNA report stating that the petitioner is the biological father of the child born to the victim. That apart, there was delay in lodgment of complaint for one year. Therefore, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions.

7. Accordingly, till the disposal of the Criminal Appeal, the substantive sentence of imprisonment imposed by the learned trial Judge is alone suspended and bail are granted on the following conditions:

(a) The petitioner/accused is ordered to be released on bail, on his executing a bond **for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only)** with two sureties each for a like sum to the satisfaction of the District and Sessions Court, Thirupathur.

(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety



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bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The petitioner shall report before the Trial Court daily at 10.30 a.m. for a period of two weeks and thereafter report before the trial court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the Criminal Appeal and if he is not able to appear before the trial Court on any 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.

8. With the above directions, this Criminal Miscellaneous Petition is ordered.

12.06.2025
(2/2)

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

- 1.District and Sessions Judge, Thirupathur, Thirupathur District
- 2.The Inspector of Police,
Ambur All Women Police Station,
Thirupathur District
- 3.Central Prison,
Vellore
4. The Public Prosecutor,
Madras High Court,
Chennai.

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in

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