



CRL MP No. 17759 of 2023 in
CRL A NO.1265 OF 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-01-2025

CORAM

THE HONOURABLE MR JUSTICE SUNDER MOHAN

CRL.M.P.NO.17759 OF 2023

in CRL A.No.1265 of 2023

RAJASEKARAN
S/O. Arumugham,
No.5/36, Vanniar Street,
Salem.

Vazhapadi,

Appellant(s)

Vs

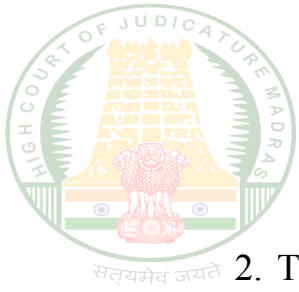
Inspector Of Police
Vazhapadi Police Station,
Salem.

Respondent(s)

For Appellant(s) : Mr. C.Sivanesan
For Respondent(s): Dr.C.E.Pratap
Govt Advocate (crl Side)

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the conviction and sentence imposed on the petitioner pursuant to the order dated 25.09.2023 made in Spl.S.C.No.144 of 2019 on the file of the Sessions Judge, Principal POCSO Court, Salem and enlarge the petitioner on bail, pending Criminal Appeal.



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2. The case of the prosecution is that the victim is a deaf and dumb child; that the petitioner is known to the victim; that on 04.11.2016, when the petitioner saw the minor girl sitting alone in front of her house, took her forcibly inside her house, removed her dress, made her lie down and attempted to insert his private part into the private part of the victim.

3. Though the petitioner/accused in Spl.S.C.No.144 of 2019 was originally charged for the offence under Section 3(a) r/w 4 of POCSO Act, he was convicted by the Trial Court and sentenced to undergo **Seven years** Rigorous Imprisonment with fine of Rs.1000/- for each of the offences u/s 9(k) r/w 10 and Section 9(m) r/w 10 of POCSO Act and in default to undergo additional rigorous imprisonment for one year for each of the offences. Aggrieved by the same, the petitioner/accused filed Crl.A.No.1265 of 2023 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The learned counsel for the petitioner would submit that the petitioner is in custody for more than 18 months and considering the fixed period of imprisonment of Seven years and also the fact that there are several arguable points in the above appeal, the sentence of imprisonment may be



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5. Heard the learned Govt. Advocate (crl.side) and perused the records.

6. Admittedly, though the petitioner was charged for the offence under Section 3(a) r/w 4 of POCSO Act, the trial court, disbelieved the version as regards penetrative sexual assault and had convicted the petitioner for the offence under Section 9(k) r/w 10 and Section 9(m) r/w 10 of POCSO Act, on the basis of the medical evidence. It has to be examined in the appeal whether the conviction can be made on the sole testimony of the victim. The appeal is not likely to be taken up in the near future.

7. Considering the above and the fact that the petitioner is in custody for more than 18 months, i.e. from 05.11.2016 to 04.01.2017 during trial and from 25.09.2023 till date, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

8. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioner is suspended and the petitioner is



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ordered to be released on bail on the following conditions:

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- (i) The petitioner shall execute a bond for a sum of Rs.10,000/-, with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Principal POCSO Court, Salem ;
- (ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and
- (iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the 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.

10.01.2025

rgf

Issue order copy by 13.01.2025
Upload the order copy forthwith.

To

1.The Sessions Judge,
Principal POCSO Court,



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Salem

2.The Inspector Of Police
Vazhapadi Police Station,
Salem.

3.The Superintendent
Central Prison,
Salem.

4.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

rgt

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