



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-10-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRL MP No. 17551 of 2025 AND CRL A NO. 581 OF 2025

1. Hidayathulla Khan

S/O.Late Lal Khan,

2. Haffezulla Khan

S/O.Late Lal Khan, Both are residing at

Old No.50/1, New No.74, Perumal

Kovil Street, Villupuram District.

Petitioner(s)

Vs

1. The State Rep By, The Inspector of
Police

All Women Police Station, Vellore,

Vellore District. Crime No.6 of 2019

Respondent(s)

PRAYER

To suspend the sentence imposed the Judgment dated 29.01.2025 on the file of learned Special Judge for Exclusive trial of cases under POCSO Act 2012, Vellore District, and enlarge the petitioner on the bail pending disposal of the criminal appeal, such order deems fit to the facts and circumstances of this case.

For Petitioner(s): M/s.S.Suresh
 G.Vinodh Kumar
 M.Vignesh Babu
 S.Gowtham



For Respondent(s): Mr.V. Meganathan, Government
Advocate

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner to suspend the sentence imposed the Judgment dated 29.01.2025 in Special S.C.No. 113 of 2021 on the file of learned Special Judge for Exclusive trial of cases under POCSO Act 2012, Vellore District, and enlarge the petitioner on the bail pending disposal of the criminal appeal,

2. The petitioners herein are the accused in Special S.C.No. 113 of 2021 on the file of learned Special Judge for Exclusive trial of cases under POCSO Act 2012, Vellore District. They were found guilty of the offence under Section 5(1)(m),(n) r/w 6 of POCSO Act, 2012 and sentenced to undergo 20 years R.I with a fine of RS.1,50,000/- in default 6 months of R.I. Challenging the same, the present appeal has been filed.

3. The case of the prosecution is that the defacto complainant P.W.1 is the wife of A-1. A-1 and P.W married in the year 2006 and settled in Riyadh, out of their wedlock, they have two male children (P.W.3 and P.W.4. After the



marriage of the A1 and A-2, who is none other than the younger brother of A-1 went to Riyadh for work and he stayed along with A-1 family nearly 5 years. In the meantime, the P.W1's sister i.e P.W.2 got divorce from her first husband and thereafter she got married with the A-2. After the marriage, the A-2 and P.W.2 also settled in Riyadh, Saudi Arabia along with P.W.1 and started to live there as a joint family. While so, staying at Riyadh during holidays it is alleged the A-1 and A-2 used to give tablets and when the victim children were unconscious, they used to commit sexual assault over them. It is also alleged that A-1 and A-2 said to have threatened the children not to disclose it to anyone. The children and A-1 and A-2 returned back to India on 22.11.2019, then also it is alleged A1 to A-4 continued their sexual assault when they were staying at Villupuran and Vellore. After A-1 leaving India, children informed P.W.1 and P.W.2 that they have pain in the anus. P.W.1 took the children to Ikkram Hospital, Vaniyambadi where the children were treated by Doctor. Then the P.W.1 and P.W.2 took the children for further treatment at Cmc Vellore. There it was alleged by the Children and their mothers i.e P.W1 and PW.2 that the A1 to A4 committed sexual assault on the children, the CMC Doctor referred the children as well as their respective



mothers to psychiatric treatment and evaluation at Bagayam CMC Mental Health Hospital. Hence P.W.1 lodged complaint against the petitioners and other accused. Hence, the prosecution case.

4. The learned counsel for the petitioner submits that the Court below has not appreciated the evidence properly. It is pertinent to note on going through the entire evidence of P.W.1 to P.W.5 there is absolutely no details regarding the date and occurrence. The allegations are vague, bald and ambiguous in nature. Though all the witnesses i.e P.W.1 to P.W.5 speaks about the sexual assault over the children, they themselves have admitted in their cross examination that they travelled to India several times stayed at Vellore in the parental home of P.W.1 and P.W.2 and never disclosed about the sexual assault on the children at any point of time, which continued several years together. Furthermore, it is also pertinent to note after A-1 leaving them at Vellore in the month of February 2019 and thereafter P.W.3 and P.W.4 informed P.W.1 that they have pain in anus thereafter P.W.1 took the children to Ikkram Hospital, Vaniyampadi, there treatment was given. Thereafter, they were suggested to CMC, Vellore for further treatment, the CMC Doctor referred the children as well as their respective



mothers to psychiatric treatment and evaluation at Bagayam CMC Mental Health Hospital. It is pertinent to note that there is no material to prove that P.W.3 to P.W.5 took treatment in Ikkram Hospital, Vaniyampadi or they any injuries in the anus. Per contra it is pertinent to note that the medical records issued by CMC, Vellore proves there was no sexual assault over the children. The Lower Court without considering all these aspects erroneously convicted the petitioners herein, with ulterior motive with regard to grab properties, false case foisted against them.

5. 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.

6. The learned Government Advocate submitted that the offence committed by the petitioners are very grave and prays to dismiss this petition.

7. Considering the facts and circumstances of the case coupled with the



quantum of punishment imposed upon the petitioners, also by considering the submissions of the learned counsel for the petitioners, further this Criminal appeal is not likely to be taken for final hearing in the near future, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal appeal, the reliefs of suspension of sentence and bail are granted on the following conditions:

(a) the petitioners/accused are ordered to be released on bail, on executing a bond **for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each** with two sureties, in which one surety must be a blood related surety, each for a like sum to the satisfaction of the learned Special Judge for Exclusive trial of cases under POCSO Act 2012, Vellore District.

(b) The petitioners/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The petitioners shall stay at Villupuram and report before the Villupuram Town Police Station everyday at 10:30 a.m for a period of two moths and thereafter appear before the Trial Court on every Tuesday at 10.30 a.m., until the disposal of the Criminal



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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 355 of BNSS, 2023. 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.

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

31-10-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. The Inspector of Police,
All Women Police Station,
Vellore, Vellore District.

2. The Special Judge for Exclusive trial of cases under POCSO Act 2012,
Vellore District

3. The Superintendent, Central Prison, Vellore

4. The Public prosecutor, High Court, Madras



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T.V.THAMILSELVI, J.

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