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Crl.M.P.No.17546 of 2024 in Crl.A.No.34 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.M.P.No.17546 of 2024
in Crl.A.No.34 of 2024

Mayakannan

... Petitioner

Vs

State by
The Inspector of Police,
All Women Police Station,
Pennagaram,
Dharmapuri District.
Crime No.4 of 2017

... Respondent

PRAYER: Criminal Miscellaneous Petition is filed under Section 430(1) of BNSS, 2023/Section 389 of the Criminal Procedure Code, to suspend the sentence imposed against the petitioner in Spl.S.C.No.8/2023 on the file of the learned Special Court to deal with cases related to POCSO Act, Dharmapuri, Dharmapuri District dated 11.12.2023 and enlarge the petitioner on bail pending disposal of the said Crl.A.No.34/2024 on the file of this Hon'ble Court.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.S.Raja Kumar

Additional Public Prosecutor

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioners, seeking suspension of sentence imposed by the Special Court to



deal with cases related to POCSO Act, Dharmapuri, Dharmapuri District in Spl.S.C.No.8 of 2023 dated 11.12.2023 and enlarge the petitioner on bail.

2. The petitioner herein is the accused in Spl.S.C.No.8 of 2023 on the file of the Special Court to deal with cases related to POCSO Act, Dharmapuri, Dharmapuri District. He was found guilty for the offence under Sections 5(m) and 5(l) read with Section 6 of POCSO Act and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	Sections 5(m) and 5(l) read with Section 6 of POCSO Act	to undergo rigorous imprisonment for a period of ten years and to pay fine of Rs.10,000/-, in default to undergo six months simple imprisonment.

Aggrieved by the same, the petitioner has filed this appeal along with the present miscellaneous petition.

3. The learned counsel for the petitioner/accused would submit that this is the third petition for suspension of sentence. The petitioner is in incarceration imprisonment from the date of Judgment viz., 11.12.2023. The victim was examined as PW3. Her parents were examined as PWs.1 and 2. The Doctor, who examined the victim was examined as PW.14. He would further submit that there are arguable points available in the Criminal Appeal and the



petitioner/accused have 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.

6. A perusal of the evidence of the Doctor viz., PW.14 revealed that the victim did not sustain any injury on her entire body including her private part. There is no evidence to show that the petitioner had committed penetrative sexual assault on the victim.

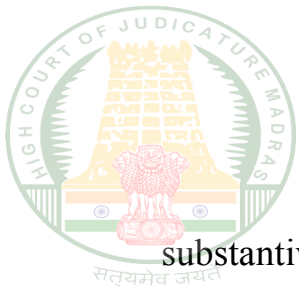


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7. A perusal of the statement of the victim recorded under Section 164 Cr.P.C revealed that the petitioner kissed the victim and touched her private part. He also bite her chest and private part. However, there is no evidence to show that the petitioner had committed assault on the victim. Therefore, the petitioner made out a prima facie case for grant of suspension of sentence imposed by the Trial Court. That apart, the petitioner is in incarceration imprisonment from 11.12.2023.

8. Considering the facts and circumstances of the case coupled with the quantum of punishment imposed upon the petitioner, also by considering the submissions of the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent police, 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.

9. 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 Special Court to deal with cases related to POCSO Act, Dharmapuri, Dharmapuri District.

(b) The petitioner/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 petitioner shall appear before the Trial Court on the every Monday 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, they 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.



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

04.06.2025

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

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To

1. The Special Court to deal with cases related to POCSO Act,
Dharmapuri, Dharmapuri District.
2. The Superintendent of Prison,
Central Prison, Salem.
3. The Inspector of Police,
All Women Police Station,
Pennagaram,
Dharmapuri District.
4. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.

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