



*Crl.M.P.No.919 of 2025  
in Crl.A.No.86 of 2025*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

**Crl.M.P.No.919 of 2025**

**in**

**Crl.A.No.86 of 2025**

Pazhanisamy

... Petitioner / Accused

Vs.

State rep by  
The Inspector of Police,  
Keelapalur Police Station,  
Ariyalur District.

Cr.No.339 of 2018

... Respondent / Complainant

Prayer: Criminal Miscellaneous Petition has been filed under Section 430(1) of the Bharatiya Nagarik Suraksha Sanhita praying to suspend the sentence imposed upon the petitioner by the judgement passed in Spl.S.C.No.04 of 2020 dated 04.10.2024 on the file of the learned Sessions Judge, Fast Track Mahila Court, Ariyalur and to enlarge the petitioner on bail.

For Petitioner : Mr.C.Gunasekaran  
for Ms.R.Meenakshi Devi  
For Respondent : Dr.C.E.Pratap  
Government Advocate (Crl.Side)



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**ORDER**

The Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the judgement passed in Spl.S.C.No.04 of 2020 dated 04.10.2024 on the file of the learned Sessions Judge, Fast Track Mahila Court, Ariyalur and to enlarge the petitioner on bail.

2. The case of the prosecution is that the victim, aged about 17 years, had a love affair with A1; and that the petitioner, who is the brother of the complainant and one Ponusamy, who is the father of the complainant, had kidnapped the victim girl and pursuant to the said act, A1 is said to have committed penetrative sexual assault on the victim.

3. The petitioner/accused in Spl.S.C.No.04 of 2020 was convicted by the Sessions Judge, Fast Track Mahila Court, Ariyalur for the offences under Section 366 r/w Section 109 IPC and was sentenced to undergo 10 years of rigorous imprisonment with fine of Rs.5,000/-, in default to undergo simple imprisonment for 1 year. Aggrieved by the said order, the petitioner/accused filed Crl.A.No.86 of 2025 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.



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4. The learned counsel for the petitioner would submit that admittedly the victim and A1 had a love affair and the only allegation against the petitioner is that he had abetted the offence under Section 366 IPC; and that the said offence is not made out and he has raised substantial grounds in the above appeal, which requires consideration. Considering the period of incarceration, the sentence imposed on the petitioner may be suspended, submitted the learned counsel .

5. Heard the learned counsel for the learned Government Advocate (Crl.Side) for the respondent and perused the records, including the counter affidavit filed by the respondent.

6. Though the petitioner was charged for the offences under Section 6 r/w Section 17 of POCSO Act, the trial Court found that the prosecution had not established those offences and found him guilty of the offence under Section 366 IPC. The petitioner had raised substantial grounds, which has to be examined to ascertain if the offence under Section 109 r/w 366 IPC has been made out. The appeal is not likely to be heard in the near future.



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Considering the nature of the allegation and the evidence, this Court is of the view that the sentence imposed on the petitioner can be suspended till the disposal of the above Appeal. Accordingly, the petition is ordered and the petitioner is released on bail on the following conditions:

(i) The sentence of imprisonment alone, imposed on the petitioner/accused shall be suspended, on him executing a bond for a sum of Rs.10,000/- with two sureties, each for a likesum to the satisfaction of the Sessions Judge, Fast Track Mahila Court, Ariyalur.

(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;

(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.



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9. Accordingly, the Criminal Miscellaneous Petition is ordered.

30.01.2025  
(2/2)

Anu

**Issue order copy by 04.02.2025**

**Upload the order copy forthwith.**

To

1.The Sessions Judge, Fast Track Mahila Court, Ariyalur

2.The Superintendent,  
Central Prison, Trichy

3.The Inspector of Police,  
Keelapalur Police Station,  
Ariyalur District.

4.The Public Prosecutor,  
High Court, Madras.



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**SUNDER MOHAN, J.**  
Anu

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