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Crl.M.P.No.5 of 2025  
in Crl.A.No.2 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

**Crl.M.P.No.5 of 2025**

**in**

**Crl.A.No.2 of 2025**

Periyasamy

... Petitioner /Accused

Vs.

State Rep. by

The Inspector of Police,

Neyveli Thermal Police Station,

Cuddalore District.

(Crime No.519 of 2020)

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 430(1) and 483 of BNSS praying to suspend the sentence and grant bail to the petitioner/appellant for the conviction and sentence imposed in Spl.S.C.No.62 of 2020 dated 24.10.2024 on the file of Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore, pending disposal of the above Criminal Appeal.

For Petitioner : Mr.K.Gandhi Kumar

For Respondent : Dr.C.E.Pratap

Government Advocate (Crl. Side)



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## **ORDER**

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the judgment dated 24.10.2024 passed in Spl.S.C.No.62 of 2020 by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore, pending disposal of the above criminal appeal and enlarge the petitioner on bail.

2. The case of the prosecution is that the victim child, who was aged about 7 years at the time of occurrence, was a school going child and during the pandemic period since the parents of the victim were without job, they left the victim in her grandfather's house; that the petitioner used to visit victim's grandfather's house, utilised the opportunity and committed penetrative sexual assault on two occasions prior to 27.07.2020 and also threatened the victim of dire consequences, if she revealed it to anyone.



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3.The petitioner/Accused in Spl.S.C.No.62 of 2020 was convicted by the Trial Court by the judgment dated 24.10.2024 for the offences under Sections 9(k) r/w 10 of POCSO Act and sentenced to undergo 7 years rigorous imprisonment and to pay a fine of Rs.50,000/-, in default, to undergo simple imprisonment for one year. Aggrieved by the same, he filed Crl.A.No.2 of 2025 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

4.The learned counsel for the petitioner would submit that PW1 and PW4/parents of the victim turned hostile; that the trial Court disbelieved the evidence of victim as regards the penetrative sexual assault considering the medical evidence, however, convicted the petitioner for offence under Section 9(k) r/w 10 of POCSO Act and sentenced to 7 years rigorous imprisonment, which is erroneous and submitted that there are several vital contradictions, which requires consideration in the above appeal and prayed for granting suspension of sentence.



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5.Heard the learned Government Advocate (Crl. Side) and perused the counter affidavit.

6.It is seen that PW1 and PW4/parents of the victim turned hostile. PW5-another relative of the victim also turned hostile. Since the medical evidence did not corroborate the victim's version with regard to the penetrative sexual assault, the petitioner was convicted for offence under Sections 9(k) r/w 10 of POCSO Act. The learned counsel pointed out several contradictions in the evidence of victim and the other evidence on record. This Court has to examine in the above appeal whether conviction can be sustained on the sole testimony of the victim. Considering the fixed period of imprisonment imposed on the petitioner, the period of incarceration suffered by the petitioner and the above facts, this Court is inclined to grant the relief of suspension of sentence to the petitioner.



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7. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioner is suspended till the disposal of the above Criminal appeal and the petitioner is ordered to be released on bail on the following conditions:

- (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, Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore;
- (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



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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.

**31.01.2025**

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**Issue order copy by 04.02.2025**

**Upload the order copy forthwith.**



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To

- 1.The Sessions Judge,  
Special Court for Exclusive Trial of Cases  
under POCSO Act, Cuddalore.
- 2.The Inspector of Police,  
Neyveli Thermal Police Station,  
Cuddalore District.
- 3.The Superintendent,  
Central Prison,  
Cuddalore.
- 4.The Public Prosecutor,  
High Court, Madras.



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**SUNDER MOHAN, J.**

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**31.01.2025**