



CRL MP(MD)No.1666 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 03.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRL MP(MD)No.1666 of 2025

in

CRL A(MD)No.153 of 2025

Stanly @ Stalin

... Petitioner

Vs

The State through
the Inspector of Police,
All Women Police Station,
Kuzhithurai,
Kanyakumari District,
(Crime No.212 of 2016)

... Respondent

Prayer: Petition filed under Section 430 of BNSS to suspend the sentence imposed against the petitioner by the Special Court for Exclusive Trial of Cases under POCSO Act, Kanyakumari at Nagercoil in SplSC.No.1 of 2017 dated 18.10.2024 and enlarge the petitioner on bail pending disposal of the criminal appeal.

For Petitioner : Mr.M.Arikaran

For Respondent : Mr.P.Kottaichamy,

Government Advocate (Crl Side)



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ORDER

The petitioner / sole accused in SplSC.No.1 of 2017 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Kanyakumari was found guilty, convicted and sentenced to undergo 10 years rigorous imprisonment with a fine of Rs.1,000/-, in default, to undergo 6 months simple imprisonment for the offence under Section 366 of IPC, sentenced to undergo 20 years rigorous imprisonment with a fine of Rs.5,000/-, in default, to undergo 6 months simple imprisonment for the offence under Sections 5(1), 5(r) r/w 6 of POCSO Act. As against the conviction, the petitioner has filed an appeal in CrlA(MD)No.153 of 2025 and it has been admitted by this Court. Along with the appeal, the petitioner has filed this miscellaneous petition to suspend the sentence pending the appeal.

2.The learned counsel for the petitioner submits that the victim was subjected for medical examination after a period of 5 days that too only by the Police and the parents of the victim girl were not present along with the victim girl. Thus the medical examination was conducted against the provisions of Section 27 of POCSO Act and Section 164-A CrPC. He also pointed out several contradictions between the statement and evidence of the victim girl. He further submits that when the



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prosecution is unable to prove its case, the presumption under Section 29 cannot be invoked against the petitioner at all. Even then the petitioner has rebutted the presumption under Section 29 of the POCSO Act, however the trial Court has failed to consider the same. The petitioner is in jail from 18.10.2024. Therefore, the learned Counsel prayed that the sentence imposed on the petitioner be suspended pending the criminal appeal.

3.The learned Government Advocate (Crl Side) submits that the prosecution has proved its case through the prosecution witnesses and the medical reports. The trial Court has rightly found the petitioner guilty and imposed conviction on the petitioner. Therefore, he objects to suspend the sentence pending the appeal.

4.This Court considered the rival submissions made and perused the material placed on record.

5.Considering the period of incarceration of the petitioner, the petitioner is having some arguable points in the main appeal and the appeal could not be taken up for final disposal immediately, this Court is inclined to suspend the sentence pending the criminal appeal.



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6. Accordingly this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioner is ordered to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) 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, Kanyakumari and the petitioner shall stay at Ramanathapuram and report before Kenikarai Police Station daily at 10.30 am.

sd/-
03/03/2025

/ TRUE COPY /

05/03/2025

Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSK

TO

- 1 THE SESSIONS JUDGE, SPECIAL COURT FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
KANYAKUMARI AT NAGERCOIL.
- 2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KUZHITHURAI,
KANYAKUMARI DISTRICT.



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3 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:
THE INSPECTOR OF POLICE,
KENIKARAI POLICE STATION, RAMANATHAPURAM DISTRICT.

+1 CC to M/s.M.ARIKARAN, Advocate (SR-2330[I] dated 04/03/2025)

ORDER
IN
CRL MP(MD) No.1666 of 2025
in
CRL A(MD)No.153 of 2025
Date :03/03/2025

SS/SAR- /05/03/2025/ 5P/7C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023