



Crl.M.P.(MD)No.3157 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2025

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THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.3157 of 2025

in Crl.A.(MD)No.635 of 2024

Britto @ John
S/o.Anantharaj,
3, Arupudha Mathakovil Street,
Mela Thirupanthuruthi,
Thiruvaiyaru Taluk,
Thanjavur District.

Petitioner(s)

versus

The State rep. by
The Inspector of Police,
All Women Police Station,
Thiruvaiyaru,
Thanjavur District.

Respondent(s)

For Petitioner(s):

Mr.E.Somasundaram
Advocate

For Respondent(s):

Mr.A.S.Abul Kalam Azad
Government Advocate (Crl. Side)



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ORDER

The petitioner is the sole accused in Spl.S.C.No.25 of 2023 on the file of the Principal Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur. After the trial, the trial Court, by its Judgment dated 28.06.2024, found the petitioner guilty for the offence under Section 4(1) of POCSO Act and convicted and sentenced him to undergo 10 years rigorous imprisonment and to pay a fine of Rs.20,000/-, with the default sentence of one year rigorous imprisonment. Challenging the Judgment of conviction and sentence, the petitioner has preferred an appeal in Crl.A.(MD)No.635 of 2024 and the same has been admitted by this Court on 11.11.2024. The petitioner has also moved this petition seeking to suspend the sentence imposed by the trial Court pending the appeal.

2. The learned counsel appearing for the petitioner submits that there was a delay of 8 days in lodging the complaint and there was no proper explanation for the said delay. Further, out of 19 prosecution witnesses, 6 witnesses have turned hostile and no material objects were marked by the prosecution. He further submits that according to the prosecution, after the scene of occurrence, the petitioner jumped on the compound wall and thereafter, he ran away from the place of occurrence. But, as per the observation mahazar and the evidence of



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P.W.18/investigation officer, there was no compound wall. He further submits that P.W.3, who is alleged to have been present in the place of occurrence has turned hostile and P.W.7, who aided the defacto complainant in preparation of the complaint and who is a relative of the victim child, has turned hostile. Therefore, there are arguable points in this appeal. Since the petitioner is in jail from the date of Judgment, i.e. from 28.06.2024, he seeks to suspend the sentenced imposed by the trial Court.

3. The learned Government Advocate (Crl. Side) submits that though it is alleged that it is a love affair, sexual assault has been made without the consent of the victim.

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

5. The petitioner has raised certain arguable points, which can be considered only at the time of final hearing. However, the appeal could not be taken up for final hearing for want of time. Considering the points raised by the petitioner, his period of incarceration and for the reason that the appeal could not be taken up immediately, this Court is inclined to allow this petition.

6. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioner is ordered to be enlarged



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on bail on the following conditions:

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(i) The petitioner shall execute 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 Additional District Judge (FAC), Principal Special Court for Exclusive Trial of cases under POCSO Act, Thanjavur.

(ii) The petitioner shall stay in Madurai and appear before the Inspector of Police, Othakadai Police Station, Madurai, daily at 10.30 a.m. until further orders;

(iii) The petitioner shall file an undertaking affidavit before the respondent Police that he will not visit the village of the victim girl and not disturb the victim girl.

sd/-
03/04/2025

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03/04/2025
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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1. The Additional District Judge (FAC),
Principal Special Court for Exclusive Trial
of cases under POCSO Act,
Thanjavur.

2. The Superintendent,
Central Prison, Trichy.

3. The Inspector of Police,
All Women Police Station,
Thiruvaiyaru,
Thanjavur District.

4 The Inspector of Police, Othakadai Police Station, Madurai,

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.E.SOMASUNDARAM, Advocate (SR-3828[I] dated 03/04/2025)



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ORDER
IN

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in Crl.A.(MD)No.635 of 2024
Date :03/04/2025

MK/SAR /03.04.2025 6P/7C

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