



WEB COPY



*Crl.M.P.(MD)No.5345 of 2025
in Crl.A.(MD)No.217 of 2025*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17-10-2025

CORAM

THE HONOURABLE MR JUSTICE K.MURALI SHANKAR

CRL MP(MD) No.5345 of 2025

in

CRL A(MD) No.217 of 2025

Ashok Kumar

**Appellant/
Petitioner**

Vs

The State by
The Inspector of Police,
All Women Police Station,
Devakottai,
Sivagangai District.
(Crime No.02 of 2020)

**Respondent/
Complainant**

Prayer in CRL MP(MD).5345 of 2025 : This Criminal Miscellaneous Petition filed under Section 430(3) B.N.S.S. praying to suspend the sentence of rigorous imprisonment for three year term imposed by the Sessions Judge, Principal Special Court for Exclusive Trial of cases under POCSO Act, 2012, Sivagangai, Sivagangai District in Spl.S.C.No.07 of 2020 by the judgment dated 23.01.2025 and enlarge the petitioner / appellant on bail, pending disposal of the above said Criminal Appeal.

Prayer in CRL A(MD).217 of 2025 : This Criminal Appeal filed under Section 415 B.N.S.S. praying to call for the records and set aside the order of conviction and



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sentence passed in Spl.S.C.No.07 of 2020 dated 23.01.2025 by the Special Sessions Court for Exclusive Trial of cases under POCSO Act, 2012, Sivagangai, Sivagangai District and allow this appeal and acquit the appellant / accused from the charges levelled against him.

For Petitioner: Mr.P.Muthusamy, Advocate

For Respondent: Mr.B.Thanga Aravindh,
Government Advocate (Criminal Side)

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed on the petitioner / sole accused by the learned Sessions Judge, Principal Special Court for Exclusive Trial of cases under POCSO Act, 2012, Sivagangai, Sivagangai District, in Spl.S.C.No.07 of 2020 dated 23.01.2025, till the disposal of the appeal.

2. The case of the prosecution is that on 20.02.2020 at about 03.30 p.m., the victim girl, who is a minor, was alone in her house and knowing the same, the petitioner asking water to the victim girl went to the house and had sexually harassed her and hence, FIR came to be registered in Crime No.2 of 2020.

3. The respondent police, after completing the investigation, has filed a final report for the offence under Section 7 r/w 8 of the POCSO Act, 2012 and the case was



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taken on file in Spl.S.C.No.07 of 2020 on the file of the Principal Special Court for Exclusive Trial of cases under POCSO Act, 2012, Sivagangai, Sivagangai District.

4. During trial, the prosecution examined 12 witnesses as P.W.1 to P.W.12, exhibited 11 documents as Ex.P.1 to Ex.P.11 and marked 1 material object as M.O.1. The accused adduced neither oral nor documentary evidence.

5. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, passed the impugned judgment dated 23.01.2025 convicting the petitioner for the offence under Section 7 r/w 8 of the POCSO Act and sentenced him to undergo rigorous imprisonment for three years and to pay a fine of Rs.5,000/-, in default to undergo imprisonment for a further period of one month. Challenging the above said conviction and sentence, the sole accused has preferred the present Criminal Appeal along with the above miscellaneous petition for suspension of sentence.

6. The learned counsel appearing for the petitioner would submit that on the date of judgment, the petitioner moved an application for suspension of sentence and the learned Sessions Judge in Cr.M.P.No.1 of 2025 vide order dated 23.01.2025 suspended



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the sentence till 21.02.2025 and that the petitioner has filed an appeal and moved a petition for suspension of sentence before this Court in Crl.M.P.(MD)No.2093 of 2025 and since the petitioner has not surrendered even after the expiry of the suspension period, the said petition was ordered to be dismissed. He would further contend that subsequently, the petitioner surrendered before the concerned Court on 20.03.2025 and is in judicial custody till now.

7. The learned counsel appearing for the petitioner would further submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner has paid the fine amount.

8. The learned Government Advocate (Criminal Side) appearing for the respondent police would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

9. This Court has carefully considered the rival contentions put forth by either side and also perused the materials available on record.



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10. The learned counsel appearing for the petitioner would point out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

11. In the result, this Criminal Miscellaneous Petition is ordered. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:-

(i) The petitioner shall execute 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 learned Sessions Judge, Principal Special Court for Exclusive Trial of cases under POCSO Act, 2012, Sivagangai, Sivagangai District;

(ii) 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 to ensure their identity; and

(iii) The petitioner shall appear before the trial Court on the first working day of every week at **10.30 a.m., until further orders** and if he is



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not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 355 B.N.S.S. 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.

17-10-2025

CSM

To

- 1.The Sessions Judge,
Principal Special Court for Exclusive Trial of cases under POCSO Act, 2012,
Sivagangai, Sivagangai District.
- 2.Do through the Chief Judicial Magistrate,
Sivagangai District.
- 3.The Superintendent,
Central Prison,
Madurai.
- 4.The Inspector of Police,
All Women Police Station,
Devakottai,
Sivagangai District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.