



CRL MP(MD) No. 7634 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07-08-2025

CORAM

THE HONOURABLE DR JUSTICE R.N.MANJULA

CRL MP(MD) No. 7634 of 2025

in

CRL A(MD) No.424 of 2025

Nagaraj

...Petitioner/ Appellant/ Accused

Vs

The State of Tamil Nadu
Rep., by The Inspector of Police,
AWPS, Periyakulam Police Station,
Periyakulam, Theni.

... Respondent/ Respondent/ Complainant

For Petitioner(s):

Mr.D.Prasanna Kumar

For Respondent(s):

Mr.A.Albert James
Government Advocate (crl.side)

ORDER

The Criminal Miscellaneous Petition is filed to suspend the sentence of imprisonment imposed on the petitioner by the learned Sessions Judge, Special

Court for Exclusive Trial of Cases under POCSO Act, Theni, dated 26.09.2024 in

<https://www.mhc.tn.gov.in/judis>



CRL MP(MD) No. 7634 of 2025

Special S.C.No.245/2023, till the disposal of appeal.

WEB COPY

2. The petitioner is the sole accused, who has been found guilty and convicted for the offence under Section 10 of POCSO Act and sentenced to undergo five years of rigorous imprisonment along with a fine of Rs.25,000/-, in default to undergo one year of rigorous imprisonment.

3. The case of the prosecution is that the victim girl is the grand-daughter of the defacto complainant and her father is no more. The accused is the brother of the defacto complainant. The victim girl was studying in VII standard by staying in the hostel attached to the school. On 23.10.2022, the defacto complainant and his wife including the victim child went to the parents' house of the defacto complainant to visit them. Thereafter, the defacto complainant and his wife came back, but the victim girl was alone staying at the house of the brother of the accused, namely Subramani. The accused was staying in the first floor of the same house. The deepavali festival fell on 24.10.2022. In the early morning, at around 04.00 am., on 25.10.2022, the rest of the family members of the accused had gone on a tour. The victim child was staying at the house of the accused during night hours of 24.10.2022. After his family members left, on the early morning at about 05.00 am.,



CRL MP(MD) No. 7634 of 2025

WEB COPY

the accused went to the room where the victim child was sleeping and sexually assaulted her by lying on her and by squeezing her breast. The victim girl pushed him away and locked the room from inside and thereafter, informed about the occurrence to Subramani through cellphone. The said Subramani went to the rescue of the child. On 11.01.2023, at about 09.30 pm., when the witnesses Murugesan and his son Ramkumar went to the house of the accused and asked about the occurrence, the accused abused them in filthy language and threatened them. Thereafter, a complaint was lodged.

4. The learned counsel for the appellant claimed that there is delay of nearly 85 days in lodging the complaint; the case has been given only in view of the animosity between the victim family and the accused family, who have different political inclination and the victim girl was used as a means to falsely implicate the accused; the material contradictions and inconsistency in the evidence of prosecution witnesses have been overlooked by the trial Court; the important witnesses have not been examined and the allegations made in the complaint has not been substantiated. He further submitted that the accused is 62 years old and the appeal has already been admitted and the accused has been incarceration for nearly 11 months. Hence, the sentence imposed against the petitioner may be suspended.



CRL MP(MD) No. 7634 of 2025

WEB COPY

5. Notice was sent to the defacto complainant and the defacto complainant filed his objection by saying that if the sentence imposed on the petitioner is suspended, it will cause irreparable loss and hardship to the defacto complainant.

6. On perusal of the written objection of the defacto complainant, it is seen that he has reiterated the facts and the appreciation of the trial Court in the evidence on record.

7. The learned Government Advocate (Crl.side) submitted that the grounds taken in the appeal lack merit and that suspending the sentence against the accused would endanger the safety of the victim and her family.

8. The defacto complainant and the accused are brothers. In fact, an another brother was staying on the ground-floor of the house of the accused. The victim was studying in VII standard at the time of occurrence and said to be staying alone at the house of the accused. However, there is a delay of nearly 85 days in lodging the complaint. As per the statement of victim girl, she had revealed about the occurrence immediately on the same day, however, complaint has been given only on 23.10.2022. As the delay was not explained and the trial Court has also not gone to the above points and there is no possibility to take up the appeal in the near future and also considering the period of incarceration already undergone by the accused, I feel the sentence against the accused can be suspended and he can be



CRL MP(MD) No. 7634 of 2025

enlarged on bail with certain conditions.

WEB COPY

9. Accordingly, this Criminal Miscellaneous Petition is allowed. The substantive part of the sentence of imprisonment alone is suspended and the petitioner is enlarged on bail on the following conditions:

- i. that 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, Special Court for Exclusive Trail of Cases under POCSO Act, Theni;
- ii. that the petitioner shall appear before the said Court once in a month (i.e., on the first working day of every English Calender month) at 10.30 a.m. till the disposal of appeal.

sd/-
07/08/2025

/ TRUE COPY /

08/08/2025
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.



CRL MP(MD) No. 7634 of 2025

To सत्यमेव जयते

1.The Sessions Judge, Special Court for Exclusive Trail of Cases under POCSO Act, Theni.

2.The Superintendent, Central Prison, Madurai.

3.The Inspector of Police,

AWPS, Periyakulam Police Station, Periyakulam, Theni.

4.The Additional Public Prosecutor,

Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.KASIRAJAN, Advocate (SR-8540[I] dated 07/08/2025)

ORDER

IN

CRL MP(MD) No. 7634 of 2025

in

CRL A(MD) No.424 of 2025

Date :07/08/2025

PR/08.08.2025 6P/6C

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