



CRL MP(MD) NO. 11326 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03-03-2025

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

CRL MP(MD) NO. 11326 of 2024

in

CRL A(MD)No.867 of 2024

Iyappan
S/o. Sundaram,
Meda Police Station Street,
Palayamkottai, Tirunelveli District.

...Petitioner/ Appellant/Sole Accused

Vs

The State of Tamilnadu
Rep. by The Inspector of Police,
Pasuvanthanai Police Station, Thoothukudi District.
Crime No. 95/2017.

...Respondent/Respondent/Complainant

Prayer: Petition filed under Section 430 of BNSS to suspend the sentence imposed on the petitioner in SplSC.No.118 of 2019 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi dated 24.04.2023 and enlarge the petitioner on bail pending disposal of the criminal appeal and grant bail to the petitioner on any condition.

For Petitioner : Mr.J. Senthil Kumaraiah, Advocate

For Respondent: Mr.P.Kottaichamy
Government Advocate (Crl Side)

ORDER

The petitioner / accused in SplSC.No.118 of 2019 on the file of the Special Court



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for Exclusive Trial of Cases under POCSO Act, Thoothukudi was found guilty, WEB COPY convicted and sentenced to undergo 10 years rigorous imprisonment with a fine of Rs.10,000/-, in default, to undergo 6 months simple imprisonment for the offence under Section 5(1) r/w Section 6 of the POCSO Act. As against the conviction, the petitioner has filed an appeal in CrIa(MD)No.867 of 2024. 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 age of the victim girl was 18 years at the time of occurrence. Even according to the statement of the victim girl recorded under Section 164 CrPC, she had love affair with the petitioner, without any coercion and compulsion she went along with the petitioner and they got married on 21.08.2017. On 22.08.2017 she went to her house and their family accepted their marriage. Only thereafter they had physical relationship. Thereafter on 25.08.2017 the complaint was lodged. But the victim girl has deposed an entirely different story in the 161(3) CrPC statement, contrary to what was stated in the 164 CrPC statement. Therefore, the evidence of the victim girl does not inspire confidence. He further submits that PW3 is the doctor examined the victim, before whom, she has stated that on her own volition she went along with the petitioner. He



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further submits that there is no independent witness except the interested witnesses. Further the earliest complaint given by the victim has been suppressed. The trial Court has failed to consider all these facts. The petitioner is in jail from 24.04.2023. Therefore, the learned Counsel prayed that the sentence be suspended pending the appeal.

3. The learned Government Advocate (Crl Side) submits that the victim girl was 17 years at the time of occurrence. The petitioner had taken the victim girl to several places and had committed the offence. Therefore, 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 and that it is a love affair and that 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.

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/-



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(Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi and the petitioner shall stay at Nagappatinam and report before Nagapattinam Police Station daily at 10.30 am.

sd/-
03/03/2025

/ TRUE COPY /

04/03/2025
Sub-Assistant Registrar (AE)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSK

TO

1. THE SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
THOOTHUKUDI
2. THE INSPECTOR OF POLICE,
PASUVANTHANAI POLICE STATION, THOOTHUKUDI DISTRICT.
3. THE INSPECTOR OF POLICE,
NAGAPATTINAM POLICE STATION, NAGAPATTINAM.
4. THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1 CC to M/s.J. SENTHIL KUMARAI AH, Advocate (SR-2327[I] dated 03/03/2025)



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ORDER
IN
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in
CRL A(MD)No.867 of 2024
Date :03/03/2025

RK (04/03/2025) 5P / 7C

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