

*Crl.M.P.(MD)No.13418 of 2025*

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 08.10.2025

Delivered on : 17.10.2025

CORAM

**THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR**

Crl.M.P(MD)No.13418 of 2025

in

Crl.A(MD)No.1034 of 2025

Vairam

... Petitioner/A3

Vs.

State of Tamil Nadu rep.by  
The Inspector of Police,  
AWPS Keeranur,  
Pudukkottai District.  
Crime No.29 of 2022.

... Respondent

**PRAYER :** Criminal Miscellaneous Petition filed under Section 430 (1) of BNSS, to suspend the sentence of imprisonment imposed on the petitioner/A3 in Spl.S.C.No.68 of 2022, dated 18.08.2025 on the file of the Mahila Court, Pudukkottai District, pending disposal of the above appeal.

For Petitioner : Mr.K.Jeya Mohan,

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



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## **ORDER**

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This Criminal Miscellaneous Petition has been filed seeking orders to suspend the sentence of imprisonment imposed on the petitioner/A3 in Spl.S.C.No.68 of 2022, dated 18.08.2025 on the file of the Mahila Court, Pudukkottai District, pending disposal of the above appeal.

2. The case of the prosecution is that the first accused is the husband of the second accused, who is working as an Assistant maid in Vennamuthanpatti Paalvadi and the third accused is working as a Teacher in the above said Paalvadi and while things were so, the first accused used to visit the Paalvadi frequently as his wife was working there and at the time of his visits, he was sexually abusing the children, who were present there. On 19.02.2022, at about 02.00 pm, when the petitioner/A3 and the second accused are said to have left the Paalvadi and the first accused taking advantage of the same, had sexually abused the victim. On the basis of the complaint lodged by P.W.1/mother of the victim girl, FIR came to be registered in Crime No.29 of 2022 on the file of the respondent police for the offences under Sections 5(l), 5(f), 5(m) r/w 6(1) of POCSO Amendment Act 2015.



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3. The respondent police, after completing the investigation, filed the final report and the case was taken on file in Spl.C.C.No.68 of 2022 and the same was pending on the file of the Mahila Court, Pudukottai District.

4. During trial, the prosecution examined 11 witnesses as P.W.1 to P.W.11 and exhibited 20 documents as Ex.P.1 to Ex.P.20. Whereas, the accused had adduced neither oral nor documentary evidence.

5. Pending trial, the first accused was reported dead and hence, the charges as against him were ordered to be abated. The learned Sessions Judge, upon considering the evidence, both oral and documentary and on hearing the arguments on both the sides, passed the impugned judgment, dated 18.08.2025 convicting the accused 2 and 3 for the offence under 75 of Juvenile Justice Act and sentenced them to undergo four years imprisonment. Aggrieved by the impugned judgment of conviction and sentence, the third accused has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.



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6. The learned counsel appearing for the petitioner/appellant would submit that the petitioner did not intentionally leave the child in a harmful situation; that the *actus reus* and *mens rea* for the offences are missing; that the petitioner had gone for the work of Aadhar linking and verification process that was assigned to her on the date of occurrence; that the petitioner's higher official P.W.7 has deposed that the petitioner had gone out of Anganwadi Centre on various dates only at the instance of other official duties assigned to her; that the petitioner had gone to Puliur at around 02.30 pm, on the date of occurrence for carrying out the work of Aadhar linking and verification process; that the prosecution has not brought in any evidence to prove that her absence during the time of occurrence was wilful and negligent; that though the main allegation levelled against the petitioner is that she was negligent in her duty, but the trial Court has failed to see whether the petitioner was wilfully negligent in her duty; that the petitioner/appellant is in judicial custody from 18.08.2025 and is aged about 62 years and that therefore, sentence imposed on the petitioner may be suspended and she may be enlarged on bail.



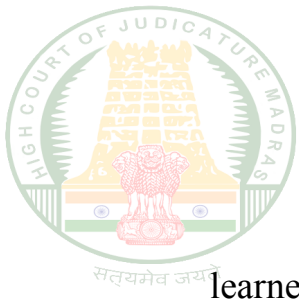
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7. The learned Government Advocate (Criminal Side) appearing for the State would submit that the victim girl was aged four years at the time occurrence; that the accused 2 and 3, who were responsible for the centre had left the Paalvadi by allowing the first accused to remain in the campus and the first accused taking advantage of the absence of the accused 2 and 3, had sexually abused the victim girl and that since the offence alleged and proved against the petitioner are serious in nature, she is not entitled to get the relief of suspension of sentence.

8.As rightly pointed out by the learned counsel for the petitioner/appellant, the main charges under POCSO Act were levelled against the first accused and pending criminal trial, he died and hence, the charges as against him were ordered to be abated.

9. Admittedly, the petitioner/appellant is the Teacher in charge of the Vennamuthanpatti Paalvadi. According to the prosecution, the petitioner/appellant and her Assistant/A2 had left the Paalvadi, allowing the first accused to remain on campus and commit the sexual offence. But the



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learned counsel for the petitioner would contend that the petitioner was directed by her higher officials to go to Puliur for carrying the work of Aadhar linking and verification process and on other occasions also, she left the Paalvadi only for attending other duty assigned to her.

10.As rightly pointed out by the learned counsel for the petitioner/appellant, though the petitioner and the second accused were also charged for the offence under Section 17 of POCSO Amendment Act, the trial Court by holding that the prosecution has failed to prove the said charge, but proceeded to convict the accused 2 and 3 for the offence under Section 75 Juvenile Justice Act. Section 75 of Juvenile Justice Act contemplates that whoever having actual control over a child, assaults, abandons, abuses, exposes or wilfully neglects the child or causes or procures the child to be assaulted, abandoned, abused, exposed or neglected in a manner likely to cause such child unnecessary mental or physical suffering, shall be punishable with imprisonment.

11. The learned counsel appearing for the petitioner would submit that the prosecution has not produced any evidence to show that the



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petitioner/appellant was wilfully neglect in her duty and as such, the impugned conviction itself is not sustainable.

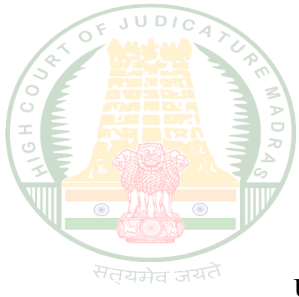
12. Considering the facts, circumstances and nature of offences allegedly proved against the petitioner, along with taking into account the petitioner's age, this Court is inclined to suspend the sentence.

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

(i) the petitioner is directed to 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 Mahila Court, Pudukkottai District;

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iii) The petitioner shall appear before the trial Court once in a week i.e., on the first working day of every week at 10.30 a.m.,



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until further orders and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an application under Section 317 of Cr.P.C (355 of BNSS) 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**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
das



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To

- 1.The Sessions Judge, Mahila Court, Pudukkottai.
- 2.The Inspector of Police,  
AWPS Keeranur, Pudukkottai District.
- 3.The Superintendent of Prison,  
Special Prison for Women, Trichy.
- 4.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**K.MURALI SHANKAR,J.**

das

Pre-delivery order made in  
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in  
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Dated: 17.10.2025