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CRL MP No. 3391 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-02-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

**CRL MP No. 3391 of 2026
in Crl.A.No.1661 of 2024**

Arulselvan @ Kolanchi
S/o.Annadhurai,
West Street,
Koppiliyakudikadu,
Ariyalur District.

..Petitioner(s)

Vs

The State rep.by, Inspector of Police,
Keelapalur Police Station,
Ariyalur District.
Cr.No.339/2018.

..Respondent(s)

Prayer: This Criminal Miscellaneous Petition is filed under Section 430 (1) of BNSS, to suspend the substantive sentence imposed upon the petitioner by the judgment passed in Spl.SC.No.04 of 2020 dated 04.10.2024 on the file of the Sessions Judge, Fast Track Mahila Court, Ariyalur and to enlarge the petitioner on bail pending disposal of the Crl.A.No.1661/2024.

For Petitioner(s):

Mr.C.Gunasekaran

For Respondent(s):

Mr.S.Balaji

Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by judgment dated 04.10.2024 passed in



Spl.S.C.No.04/2020 by the Sessions Judge, Fast Track Mahila Court, Ariyalur, pending disposal of the above criminal appeal and enlarge the petitioner on bail.

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2. The petitioner/accused in Spl.S.C.No.04/2020 was convicted by the Trial Court by judgment dated 04.10.2024, for the offence under Section 366 of IPC and Section 6 of POCSO Act and sentence as below;

<i>Section</i>	<i>Sentence</i>
366 IPC	10 years SI and to pay a fine of Rs.5000(id) to undergo 1 year SI
6 of POCSO Act	20 years RI and to pay a fine of Rs.10,000/- (id) to undergo 1 year SI

Aggrieved by the same, he filed Crl.A.No.1661 of 2024 before this Court along with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

3.The case of the prosecution is that the petitioner and the victim, aged about 17 years and 6 months at the time of occurrence, had a love affair; that on 22.12.2018 at 23.00 hours, the appellant took the victim to hospital for treatment for a stomach ache and thereafter, the appellant took her to a relative's house and had committed penetrative sexual assault on the victim girl; that on the complaint of the victim's father, an FIR was registered initially for 'girl



missing' and subsequently altered to offences under Sections 366, 376(2)(f), 376(2)(n), 34, 109 IPC r/w 5(1) & 6 of the POCSO Act.

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4.The learned counsel for the petitioner would submit that this is the second petition for suspension of sentence and the earlier petition was dismissed on 24.07.2025, since certain vital facts were not brought to the notice of the Court and that considering the fact that the petitioner is in custody and there are several arguable points, prayed for suspension of sentence.

5.The learned Government Advocate (Crl. Side) would confirm that it is the case of the prosecution that the petitioner and the victim girl had a love affair and had consensual relationship; that however, consent is immaterial, since the victim was a minor at the time of occurrence; and prayed for dismissal of the petition.

6.Admittedly, the petitioner and the victim had a love affair and their relationship was consensual. However, as rightly pointed out by the learned Government Advocate (Crl. Side), consent is immaterial if the victim is a child. The prosecution had marked Ext.P6 and Ext. P7, the school certificate and admission register to prove the date of birth of the victim as 25.06.2001. It is seen that the headmaster, PW6, though whom the said certificate was marked had stated that he had issued the certificate based on the SSLC board certificate.



However, strangely, the prosecution had not marked the SSLC board certificate to prove the age of the victim, in accordance with Rule 94 of the Juvenile Justice (Care and Protection of children) Act, 2015. Even according to the prosecution, the victim was aged 17 years and 5 months at the time of occurrence and since there is a doubt with regard to the date of the birth of the victim, this Court is of the view that the petitioner has made out a ground for suspension of sentence and is inclined to suspend the sentence imposed on the petitioner.

7. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioner is suspended till the disposal of the above criminal appeal and the petitioner is ordered to be released on bail on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.10,000/-, with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Ariyalur;
- (ii) The petitioner and 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 and mobile numbers to ensure their identity; and
- (iii) The petitioner shall appear before the Trial Court on the first



working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. 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.

26-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

TSG

Note: Issue order copy on 26.02.2026

To

- 1.The Sessions Judge,
Fast Track Mahila Court, Ariyalur.
- 2.The Superintendent,
Central Prison, Ariyalur.
- 3.The Inspector of Police,
Keelapalur Police Station,
Ariyalur District.
- 4.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

TSG

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