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Crl.M.P.No.4885 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2026

CORAM:

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.No.4885 of 2026
in Crl.A.No.285 of 2026

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... Petitioner

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Kilpennathur,
Tiruvannamalai District.

(Crime No.90 of 2022)

... Respondent

PRAYER: Criminal Miscellaneous Petition is filed under Section 430(1) of the Bharatiya Nagarik Suraksha Sanhita, to suspend the sentence imposed upon the petitioner/appellant in Spl.S.C.No.99 of 2022 dated 31.10.2025 passed by the Special Court for Exclusive Trial of Cases under POCSO Act), Tiruvannamalai, and release the petitioner on bail pending disposal of the criminal appeal.

For Petitioner : Mr.K.Selvakumaraswamy

For Respondent : Ms.J.R.Archana
Government Advocate (Criminal Side)



ORDER

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This Petition has been filed seeking suspension of sentence of imprisonment, imposed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Tiruvannamalai, in Spl.S.C.No.99 of 2022, vide judgment dated 31.10.2025.

2. The brief facts of the case are as follows:-

2.1. Based on the complaint given by the *de facto* complainant/PW1 alleging that his minor daughter/victim (PW2), aged about 16 years, is missing from 11.03.2022, a case in Crime No.90 of 2022 came to be registered for “girl missing”.

2.2. During the course of investigation, it came to light that the petitioner/appellant kidnapped the minor daughter/victim (PW2) of the *de facto* complainant/PW1 and committed penetrative sexual assault on her. Hence, the case was altered to one under Sections 363, 366, 376(2)(n) of IPC and Sections 5(1) and 6 of the Protection of Children from Sexual Offences Act, 2012.

2.3. After completion of investigation, the investigating officer filed a charge sheet and the same was taken on file as Spl.S.C.No.99 of 2022 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act), Tiruvannamalai.



2.4. On issuance of summons, the accused appeared before the Court and in compliance of Section 207 of Cr.P.C., copies of relied upon documents were furnished to him.

2.5. After hearing the counsel on both sides, charges were framed against the accused. During initial questioning in respect of the incriminating materials, the accused denied the charges and sought trial.

2.6. On the side of the prosecution, PW1 to PW16 were examined and Ex.P1 to Ex.P14 and M.O.1 and M.O.2 were marked. On the side of the defence, neither any witness was examined nor any document marked.

2.7. The trial Court, after hearing the arguments on both sides and upon consideration of the entire materials on record, found the petitioner/appellant guilty of the offences charged and convicted and sentenced him vide judgment dated 31.10.2025 as follows:-

<i>Under Section</i>	<i>Sentence</i>
366 IPC	Ten years rigorous imprisonment and fine of Rs.10,000/-, in default, to undergo six months simple imprisonment.
376(2)(n) and Section 6 of the POCSO Act	Twenty years rigorous imprisonment and fine of Rs.10,000/-, in default, to undergo six months simple imprisonment.
The aforesaid sentences were ordered to run concurrently.	



3. The submissions of the learned counsel appearing for the petitioner/appellant are as follows:-

3.1. A reading of the facts would clearly disclose that it is a case of elopement.

3.2. At the time of occurrence, the petitioner was 24 years old and the victim/PW2 was 16 years of age. There was a love affair between the petitioner and the victim/PW2 and since their parents objected to the relationship, the couple, without understanding the consequences, fled to Asudipaaram Village, Shimoga Taluk, Karnataka District.

3.3. The prosecution failed to conclusively prove the victim/PW2's age through legal documentary evidence. Whereas, the prosecution relied on the X-Ray report. In such circumstances, the margin of error of two years has to be given in favour of the petitioner/appellant

3.4. There are arguable points available in the Criminal Appeal, which is unlikely to be taken up for final hearing in the near future and the petitioner/appellant has a fair chance of succeeding in the appeal.

3.5. The fine amount has been paid by the petitioner/appellant. The petitioner/appellant was granted bail during trial and he has not misused the liberty granted to him and now he has been suffering incarceration in the Central Prison, Vellore. Hence, the sentence imposed on him may be suspended and he may be enlarged on bail.



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4. The learned Government Advocate (Criminal Side) appearing for the respondent submitted as follows:

4.1. The petitioner/appellant and the victim/PW2 hail from the same village and were known to each other.

4.2. The petitioner/appellant allegedly kidnapped the victim/PW2 from the lawful guardianship of her parents and took her to Karnataka, where he committed penetrative sexual assault on her.

4.3. The trial Court, after taking into consideration the oral and documentary evidence adduced by the prosecution, including the medical evidence, rightly found the petitioner/appellant guilty and convicted and sentenced him, as stated above. Hence, the petition seeking suspension of sentence may be dismissed.

5. Heard the learned counsel for the petitioner/appellant and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the materials on record, including the counter filed by the respondent police.

6. Considering the facts and circumstances of the case and also the submissions made by the learned counsel on either side and taking



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note of the period of incarceration undergone by the petitioner/appellant, this Court is of the view that the petitioner/appellant has made out a *prima facie* case for the grant of suspension of sentence and bail. Therefore, the sentence of imprisonment can be suspended and the petitioner/appellant can be granted bail on certain conditions. Accordingly, pending disposal of the appeal, the substantive sentence of imprisonment alone is suspended and the petitioner/appellant is enlarged on bail, subject to the following conditions:-

“(i) The petitioner/appellant shall execute a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Tiruvannamalai;

(ii) The petitioner/appellant shall appear before the trial Court on the first working day of every English calendar month at 10.30 a.m., until further orders;

7. Accordingly, this Criminal Miscellaneous Petition stands ordered.

27.04.2026

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To

1. The Sessions Judge,
Special Court for Exclusive Trial of Cases under POCSO Act,
Tiruvannamalai.
2. The Inspector of Police,
All Women Police Station,
Kilpennathur,
Tiruvannamalai District.
3. The Superintendent,
Central Prison,
Vellore.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.

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