



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-04-2026

CORAM

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

CRL MP No. 4627 of 2026

AND

CRL A NO. 266 OF 2026

Moses,
S/o.Joseph,
No.9/13, Navajeevan Nagar,
2nd Street, Pattabiram,
Chennai - 600 072.

..Petitioner(s)

Vs

The State rep. by the Inspector of Police,
All Women Police Station,
Avadi,
Tiruvallur.

..Respondent(s)

PRAYER: This petition has been filed under Section 389(3) of Cr.P.C/430 of BNSS, seeking to suspend the conviction and sentence imposed on the petitioner in Spl.S.C.No. 39/2017 dated 09.10.2025 on the file of the Special Court for the exclusively trial of cases under POCSO Act, Thiruvallur, pending disposal of the above Criminal appeal.

For Petitioner(s): Mr.P.Asai Thambi

For Respondent(s): Mr.S.Udayakumar, GA(Crl.Side)



ORDER

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This petition has been filed seeking to suspend the sentence imposed on the petitioner in Spl.SC.No.39 of 2017 dated 09.10.2025 on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thiruvallur, pending disposal of the Criminal Appeal and release the petitioner on bail.

2.The petitioner/accused in Spl.SC.No.39 of 2017 was convicted and sentenced by the trial Court by its judgment dated 09.10.2025, for the following offence:

<i>Under Section</i>	<i>Sentence</i>
9(m) r/w10 of POCSO Act	Seven years rigorous imprisonment and fine of Rs.10000/-, in default, to undergo one year simple imprisonment.

3. The learned counsel for the petitioner would submit that the petitioner/accused and the mother of the victim(PW1) are neighbours, living within a common compound wall. There has been frequent quarrels between them. On 12.07.2017, there was a quarrel between the petitioner/accused and PW1's family members and a *suo motu* case was registered by the Pattabhram police in Crime No.845 of 2017 for the offences punishable under Section 75 of the TN City Police Act, 1888 and Section 7(1)(a) of the Criminal Law



(Amendment) Act, 2005 and the petitioner/accused was arrested. While so, on 14.07.2017, to harass the petitioner/accused, the de facto complainant lodged a complaint against him, alleging that on 12.07.2017, the petitioner/ accused committed aggravated sexual assault on her daughter.

4. As per the prosecution, PW1 is said to have known the incident through PW3/ class teacher of the victim girl. Only after that, the complaint has been given, whereas PW3/class teacher of the victim has not supported the case of the prosecution and she has been treated hostile. Further, a neighbour(PW4) of both the petitioner/accused and PW1 was also examined and he has also not supported the case of the prosecution. The learned counsel for the petitioner/accused submitted that there are arguable points in the criminal appeal, which is unlikely to be taken up for final hearing in the near future and the petitioner/accused has a fair chance of succeeding in the appeal and also the petitioner/accused has been in custody from 09.10.2025 and hence, the sentence imposed on the petitioner/ accused may be suspended and the petitioner/accused may be enlarged on bail.

5. Per contra, the learned Government Advocate (Crl.Side) has filed a counter affidavit and she would submit that though the petitioner/accused claims that there was a quarrel between the petitioner/accused and the mother of the victim on the previous day, however, the present case came to be registered



based on the information given by the victim's class teacher (PW3). The victim girl was taken to the hospital on 14.07.2017 and the medical report also corroborates the version of the victim girl. She would further submit that non supporting of the prosecution case by the PW3/class teacher will have no bearing in this case. Since the nature of the offence is a grievous one, she strongly opposed for granting suspension of sentence to the petitioner/accused.

6. Heard the learned counsel on either side and perused the entire materials available on record.

7. Taking into consideration the period of incarceration undergoing by the petitioner/accused and the submissions made by the learned counsel on either side, this Court is of the view that the petitioner/accused has made out a *prima facie* case for grant of relief of suspension of sentence and bail. Accordingly, this Court is inclined to grant the reliefs of suspension of sentence and bail to the petitioner/accused, till the disposal of the criminal appeal, on certain conditions.

8. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner/accused is ordered to be released on bail on his executing a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only), with two sureties (out of whom one should be a blood surety), each for a like



sum to the satisfaction of the learned Sessions Judge, Special Court to deal with cases related to POCSO Act at Tiruvallur, and on further conditions that:-

(i) The sureties shall affix their photographs and left thumb impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Passbooks to ensure their identities.

(ii) The petitioner/ accused shall appear before the trial Court on the first working day of every English calendar month at 10.30 a.m., until further orders 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 355 of BNSS, 2023 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.

9. It is made clear that the petitioner/accused shall not enter into the jurisdictional limits of the respondent police station and he shall not communicate with the victim girl and her relatives, until further orders.

10. This criminal miscellaneous petition stands ordered accordingly.

24-04-2026

Neutral Citation: Yes/No

DN



To:

1. The learned Sessions Judge, Special Court to deal with cases related to POCSO Act at Thiruvallur
2. The Superintendent,
Puzhal Central prison-1, Chennai.
3. The Inspector of Police,
All Women Police Station,
Avadi,
Tiruvallur.
4. The Public Prosecutor,
Madras High Court.



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A.D.JAGADISH CHANDIRA J.

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