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Crl.MP.No.3766 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2026

CORAM:

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

Crl.MP.No.3766 of 2026

in

Crl.A.No.236 of 2026

Mahath

...Petitioner

Vs.

State rep. by,
The Inspector of Police,
J.J. Nagar Police Station,
I/c Thirumangalam AWPS,
Chennai.
Crime No.16 of 2024

...Respondent

Criminal miscellaneous petition filed under Section 430(1) of BNSS, seeking to suspend the sentence imposed by the Sessions Judge, Special Court for Exclusive trial of cases under POCSO Act Thiruvallur, vide judgment dated 16.02.2026 made in Spl.S.C.No.51 of 2024 and enlarge the petitioner on bail, pending disposal of the above Appeal.

For Petitioner : Mr.P.Muthamizhselvakumar

For Respondent : Ms.J.R.Archana, GA(Crl. Side)



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ORDER

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This criminal miscellaneous petition has been filed by the petitioner/appellant seeking suspension of sentence imposed by the learned Sessions Judge, Special Court for Exclusive trial of cases under POCSO Act, Thiruvallur, in Spl.S.C.No.51 of 2024, vide judgment dated 16.02.2026.

2. The conviction and sentence imposed by the trial Court, vide impugned judgment dated 16.02.2026 made in Spl.S.C.No.51 of 2024 is as follows:-

<i>Under Section</i>	<i>Sentence</i>
366 of IPC	Ten years rigorous imprisonment and a fine of Rs.10,000/-, in default, to undergo three years simple imprisonment.
9 of Prohibition of Child Marriage Act, 2006	Two years rigorous imprisonment and a fine of Rs.25,000/-, in default, to undergo six months simple imprisonment.
5(1) r/w. 6(1) of POCSO (Amendment) Act, 2019	Ten years rigorous imprisonment and a fine of Rs.10,000/-, in default, to undergo three years simple imprisonment.



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3. Learned counsel for the petitioner/appellant made the following submissions :

3.1 The petitioner and the victim are residents of the same locality and were in a romantic relationship and upon learning the same, the de facto complainant/father of the victim girl, reprimanded her and hence, the victim girl left the house, without intimating her family members. However, in order to unnecessarily harass the petitioner, the present false and exaggerated complaint came to be registered against the petitioner.

3.2 The victim girl did not support the prosecution's case during trial and gave no evidence regarding the alleged sexual assault. Further, the victim girl herself admitted during the course of chief examination that she had given the statement under Section 164 of the Cr.P.C. only due to pressure from her brother and counsel.

3.3 The prosecution had miserably failed to prove the alleged marriage that took place between the petitioner/accused and the victim girl. While such being the case, the trial court, ought not to have convicted the petitioner for the above said offences.

4. In support of his contention, the learned counsel for the petitioner relied on the decision of an Hon'ble Division Bench of this



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Court in the case of ***Palraj Vs. The Inspector of Police, Pattiveeranpatti***

Police Station, Dindigul District (Crl.A.(MD).No.1063 of 2024 decided on 26.08.2025), wherein under similar circumstances, the Hon'ble Division Bench, had acquitted the accused therein from all the charges.

5. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner kidnapped the victim girl, who is a minor and committed penetrative sexual assault on her and also performed child marriage. She further submitted that the learned trial Judge, relying on the evidence of the doctor, in respect of the statement given by the victim girl, found the petitioner guilty for the abovesaid offences and that; the petitioner has not made out any ground for suspension of sentence. However, the learned Government Advocate (Crl. Side) fairly submitted that the victim girl had not supported the case of the prosecution.

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



7. Considering the fact that the petitioner has raised substantial grounds in the appeal which require a detailed consideration and also considering the period of incarceration already undergone and more particularly, considering the fact that the victim girl had not supported the prosecution's case and also taking into account the decision of the Hon'ble Division Bench in Palraj's case (*supra*), this Court is inclined to grant the relief of suspension of sentence to the petitioner, till the disposal of the criminal appeal.

8. Accordingly, the substantive sentence of imprisonment alone imposed on the petitioner is suspended and the petitioner/appellant 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, Special Court for Exclusive trial of cases under POCSO Act, Thiruvallur;

(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 passbook 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



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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.

9. On the above terms, this criminal miscellaneous petition stands ordered accordingly.

10. List the appeal on 23.03.2026.

09.03.2026

skt

Note to office: Issue order copy on 10.03.2026.

To:

1. The Sessions Judge,
Special Court for Exclusive trial of cases under POCSO Act,
Thiruvallur.
2. The Central Prison-II,
Puzhal.
4. The Inspector of Police,
J.J. Nagar Police Station,
I/c Thirumangalam AWPS,
Chennai.
5. The Public Prosecutor,
Madras High Court.



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