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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-11-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL MP No. 4468 of 2026
in
Crl.A.No.259 of 2026

Vijayakumar
S/o.Sekar,
Mootha Kovil Street,
Ponnur Village,
Vandavasi Taluk,
Tiruvannamalai District.

...Petitioner(s)

Vs

Inspector of Police,
Vandavasi All Women Police Station,
Tiruvannamalai.
Cr.No.6/2021.

...Respondent(s)

Prayer: Criminal Miscellaneous Petition is filed under Section 389(2) of Cr.P.C.,/430 of BNS to suspend the sentence imposed by the learned Special Court for Exclusive trial of cases under POCSO Act, Tiruvannamalai in Spl.SC.No.20 of 2022 dated 29.10.2025 and enlarge the petitioner on bail.

For Petitioner(s): M/s.Shantha Kumari

For Respondent(s): Ms.Sharada Vivek,
Additional Public Prosecutor

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ORDER

The Criminal Appeal challenges the Judgment passed in Spl.S.C.No.20 of 2022 by the learned Sessions Judge, Special Court for Exclusive trial of cases under POCSO Act, Tiruvannamalai, holding the petitioner guilty of the offence under Section 376(2)(n) of the IPC and sentencing him to undergo ten years rigorous imprisonment and to pay a fine of Rs.10,000/- and in default, to undergo six months simple imprisonment.

2. It is the case of prosecution that the petitioner and the victim had a romantic relationship; that the victim, born on 16.07.2003, was subjected to penetrative sexual assault by the petitioner when she was a minor in the year 2020, on the promise of marriage; and that thereafter the petitioiner threatened the victim of dire consequences, if she disclosed the penetrative sexual assault to anyone. The petitioner was therefore charged for the offences under Section 376(2)(n) of the IPC, Section 6 of the POCSO Act and Section 506 (ii) of the IPC.

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3.The Trial Court held that the victim was not a minor at the time of occurrence; and that the defence had established that the victim was born on 02.05.2002 and hence, the offence under the POCSO Act was not made out and found the petitioner guilty of the offence under Section 376 of the IPC.

4. The learned counsel for the petitioner would submit that the petitioner had established that there was a romantic relationship between the petitioner and the victim; that the evidence would disclose that the victim was aware of the consequences of her act; and that her consent was not only on the false promise of marriage, and it was due to mutual trust and love and therefore, the offence under Section 376 of the IPC is not made out.

5. The learned Additional Public Prosecutor for the respondent submitted that the petitioner is already a married person; that on the false promise of marriage, he had lured the victim and committed rape and that therefore, there is no infirmity whatsoever in the impugned judgment.

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6. The petitioner is in custody from 29.10.2025. It has been established before the trial court that the victim was not a minor at the time of occurrence. The victim had admitted in her evidence that she was in romantic relationship with the petitioner. It has to be examined in the appeal as to whether she had consented to sexual intercourse on the false promise of marriage or her romantic relationship with the petitioner. The petitioner has raised substantial grounds which requires consideration. The appeal is not likely to be taken up in the near future.

7. Considering all the above facts, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

8. 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:

> (a).The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten 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;

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(b). 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

(c).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.

12-11-2026

Note: Issue order copy today.

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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,
Vandavasi All Women Police Station,
Tiruvannamalai.

3. The Superintedent of Prison,
Central Prison,
Vellore.

4. The Public Prosecutor,
High Court of Madras.

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SUNDER MOHAN, J.

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