



Crl.M.P.No.5456 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2026

CORAM:

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

Crl.M.P.No.5456 of 2026
in Crl.A.No.219 of 2026

Thean @ Divakar

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Kudiyatham Taluk Police Station,
Vellore District.

... Respondent

PRAYER: Criminal Miscellaneous Petition is filed under Section 430(1) of the Bharatiya Nagarik Suraksha Sanhita/Section 389(1) of Cr.P.C., to suspend the sentence imposed on the petitioner/appellant in Spl.S.C.No.156 of 2021 dated 28.10.2025 by the Mahila Court (Fast Track Mahila Court), Vellore, and enlarge the petitioner on bail pending disposal of the criminal appeal.

For Petitioner : Mr.D.Prasanna Kumar

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

ORDER

This Criminal Miscellaneous Petition has been filed seeking suspension of sentence of imprisonment, imposed by the learned Sessions



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Judge, Mahila Court (Fast Track Mahila Court), Vellore, in Spl.S.C.No.156 of 2021, vide judgment dated 28.10.2025.

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 her minor daughter/victim (PW4), aged about 16 years, is missing from 14.04.2021, a case in Crime No.196 of 2021 came to be registered on 20.04.2021 for “girl missing”.

2.2. During the course of investigation, it came to light that the petitioner/appellant kidnapped the minor daughter/victim (PW4) of the *de facto* complainant/PW1, kept her in illegal detention and committed penetrative sexual assault on her. Hence, based on the statement recorded from the victim/PW4, the case was altered to one under Sections 363, 366, 376(2)(n) of IPC, Section 6 of the Protection of Children from Sexual Offences Act, 2012 and Section 9 of the Prohibition of Child Marriage Act, on 09.07.2021.

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.156 of 2021 on the file of the Mahila Court (Fast Track Mahila Court), Vellore.



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 PW22 were examined and Ex.P1 to Ex.P14 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 28.10.2025 as follows :-

<i>Under Section</i>	<i>Sentence</i>
366 IPC	Five years rigorous imprisonment and fine of Rs.10,000/-, in default, to undergo one month simple imprisonment.
9 of the Prohibition of Child Marriage Act	Two years rigorous imprisonment
5(1) r/w 6 of the POCSO Act	Twenty years rigorous imprisonment and fine of Rs.1,00,000/-, in default, to undergo three months simple imprisonment.
The aforesaid sentences were ordered to run concurrently.	



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

3.1. The trial Court failed to take into consideration the fact that the prosecution has not proved the foundational facts in this case.

3.2. It is the case of a mutual love affair and mere elopement. The statement has been recorded from the victim/PW4 under Section 164 Cr.P.C., wherein she specifically stated that the petitioner did not subject her to any physical assault, much less sexual assault.

3.3. Further, even in her statement before the Court, the victim/PW4, other than making any specific reference that she had been subjected to sex torture, has not spoken anything as if the petitioner/appellant had committed penetrative sexual assault.

3.4. Further, the age of the victim/PW4 has not been conclusively proved by legal evidence. In such circumstances, the trial Court has erred in convicting the petitioner/appellant.

3.5. 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.

3.6. The fine amount has been paid by the petitioner/appellant on 04.11.2025. The petitioner/appellant has been



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suffering incarceration in the Central Prison, Vellore. Hence, the sentence imposed on him may be suspended and he may be enlarged on bail.

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

4.1. The petitioner/appellant and the victim/PW4 hail from the same village and were known to each other.

4.2. The petitioner/appellant allegedly kidnapped the victim/PW4 from the lawful guardianship of her parents and took her to Andhra Pradesh, where he kept her in illegal detention for more than two months and committed 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.



6. Considering the facts and circumstances of the case and also the submissions made by the learned counsel on either side and taking 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, Magalir Neethimandram Court (Fast Track Mahila Court), Vellore;

(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;

(iii) It is made clear that the petitioner/appellant shall not communicate with either the victim or her family members and he shall not enter the jurisdictional limits of the Kudiyatham Taluk Police Station, Vellore District, until further orders.”



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7. Accordingly, the Criminal Miscellaneous Petition stands
ordered.

20.04.2026

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To

1. The Sessions Judge,
Magalir Neethimandram (Fast Track Mahila Court)
Vellore.
2. The Inspector of Police,
Kudiyatham Taluk Police Station,
Vellore 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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