



WEB COPY

CRL MP No. 10716 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-02-2026

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CRL MP No. 10716 of 2025

in

CRL A No. 598 of 2025

Subhash
S/o. Kaliyamoorthy,
Kalamman Koil Street,
Vandaiyar Iruppu , Puliyangudi,
Kaatumannarkovil.
Presently Confined in Central Prison,
Cuddalore.

...Petitioner(s)

Vs.

The State Rep by,
The Inspector of Police,
Setthiyathoppu All Women Police Station,
Cuddalore District.
Crime No. 1 of 2020.

...Respondent(s)

PRAYER: Criminal Miscellaneous Petition is filed under Section 415(2) of BNSS. 2023, to suspend the sentence imposed in Judgment dated 20.10.2021 passed by the Special Court for Exclusive Trial of Cases under the POCSO Act, Cuddalore in Spl.SC.No.29 of 2020 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal before this court.

For Petitioner(s): Mr.A.Karthikeyan

For Respondent(s): Mr.S.Balaji
Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the



conviction and sentence passed by the learned Sessions Judge, the Special Court for Exclusive Trial of Cases under POSCO Act, Cuddalore, in Spl.S.C.No.29 of 2020 dated 20.10.2021 pending disposal of the above criminal appeal.

2. The petitioner/Accused in Spl.S.C.No.29 of 2020 was convicted and sentenced by the Trial Court by judgment dated 20.10.2021 as follows:

under Section	Sentence imposed
451 IPC	To undergo RI for 2 years and to pay a fine of Rs.1,000/-, (i.d) SI for three months.
5(l), 6 of the POCSO Act, 2012	To undergo RI for 10 years and to pay a fine of Rs.2,000/-, (i.d) SI for 3 months
5(n), 6 of the POCSO Act, 2012	To undergo RI for 10 years and to pay a fine of Rs.2,000/-, (i.d) SI for 3 months
5(j), (ii), 6 of the POCSO Act, 2012	To undergo RI for 10 years and to pay a fine of Rs.2,000/-, (i.d) SI for 3 months
Sentences are ordered run concurrently.	

3. Aggrieved by the same, the petitioner filed CrI.A.No.598 of 2025 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The case of the prosecution is that the petitioner and the victim had a love affair with the victim, who was aged about 16 years at the time of occurrence; that both were related to each other; that on the promise of



marriage, the petitioner had committed penetrative sexual assaults on the victim girl on several occasions and as a result of which, the victim became pregnant and delivered a child; and thus the petitioner committed the aforesaid offence.

5. The learned counsel for the petitioner would submit that the petitioner is in custody from 20.10.2021 and he was in custody during the investigation for a substantial period; that there are several arguable points in the above appeal, which requires consideration; and that since the petitioner has served almost half of the sentence imposed on him and the appeal is not likely to be taken up in the near future, prayed for suspension of sentence.

6. The learned Government Advocate (Crl. Side) for the respondent, per contra, would submit that it is the case of love affair; that the consent is immaterial since the victim was aged 16 years and that the petitioner is in custody from 20.10.2021.

7. Admittedly, the petitioner and the victim had a love affair and the relationship was consensual. The evidence of the Doctor also confirms the same and the only evidence produced by the prosecution to prove the age of the victim is the school certificate. P.W13, the Headmaster, who issued the said certificate, would state that he is not aware of the basis on which the age was



recorded in the school records. No birth certificate was produced.

8. Considering all the above facts, the fact that the petitioner is in custody from 20.10.2021 and has nearly completed half of the sentence of imprisonment imposed; and since the appeal is not likely to be taken up in the near future, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

9. 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:

- (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 to deal with cases related to POCSO Act, Cuddalore;
- (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 pass Book 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 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.

20-02-2026

Mac/ars

To

1. The Special Court to deal with cases related to POCSO Act, Cuddalore
2. The Inspector of Police,
Setthiyathoppu All Women Police Station,
Cuddalore District.
3. The Public Prosecutor
High Court of Madras, Madras.
4. The Superintendent of Prison,
Central Prison, Cuddalore.



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SUNDER MOHAN, J

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**CrL.MP.No.10716 of 2025
in CrL.A.No.598 of 2025**

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