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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-10-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL MP No. 13725 of 2026
in CRL A No. 110 of 2026

K.Umapathy

..Petitioner(s)

Vs

The State Represented by its,
The Inspector of Police,
W-21, All Women Police Station,
Guindy, Chennai - 600 032.
Crime No.10 of 2019.

..Respondent(s)

Prayer: The Criminal Miscellaneous Petition is filed under Section 430(1) of BNSS, to suspend the sentence imposed in Spl.SC.No.35 of 2021 dt.08.10.2024 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu and enlarge the Petitioner on bail, pending disposal of the above Criminal Appeal No.110 of 2026 on the file of this Court.

For Petitioner(s): Dr.S.Manoharan

For Respondent(s): Ms.Sharada Vivek,
Additional Public Prosecutor
Asst. by Mr.M.Arul Raj

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ORDER

The Criminal Appeal challenges the Judgment passed in Spl.S.C.No.35 of 2021 by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu holding the petitioner guilty of the offences under Section 6(1) of the POCSO Act and Section 366 IPC and sentencing him to undergo twenty years rigorous imprisonment and to pay a fine of Rs.1,000/- and in default, to undergo one year simple imprisonment for the offence under Section 6(1) of the POCSO Act and to undergo ten years simple imprisonment and to pay a fine of Rs.1000/- and in default, to undergo one year simple imprisonment for the offence under Section 366 IPC. The sentences were ordered to run concurrently.

2. Aggrieved by the same, the petitioner has preferred Crl.A.No.110 of 2026 before this Court along with the instant criminal miscellaneous petition.

3.The learned counsel for the petitioner would submit that the petitioner is the landlord of the premises in which the parents of the

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victim stayed; that there were frequent quarrels between the husband and wife; that on the day of occurrence, the petitioner had asked the parents of the victim to vacate the premises as the father of the victim was in the habit of quarrelling with the victim's mother after consuming liquor; that aggrieved by the said act of the petitioner, he has been falsely implicated; that there are vital contradictions in the evidence of the victim in her statement before the learned Magistrate and in her deposition; that in her version before the Magistrate, she had stated that the petitioner had laid himself over the victim, whereas, in her deposition, she would improve by stating that he had inserted his finger in her private part; and that the medical evidence does not corroborate the evidence of the victim. The learned counsel would further submit that the petitioner examined DW1 and DW2 to establish that he has been falsely prosecuted and that therefore, he has raised arguable points in the above appeal, which requires consideration.

4.The learned Additional Public Prosecutor *per contra* submitted that this is the second petition for suspension of sentence; that the earlier petition was dismissed as withdrawn on 17.03.2026; that the trial Court

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was right in convicting the petitioner by believing the evidence of the victim and PW2, the mother of the victim; and that the medical evidence corroborates the evidence of the victim, as the doctor had stated that the hymen was not intact.

5.This Court has considered the rival submissions and perused the materials on record.

6.The petitioner is in custody from 08.10.2024. The petitioner is aged about 71 years. The victim in her statement before the learned Magistrate had not stated about the petitioner inserting his finger in the private part of the victim. There is an improvement in her version before the Court. Though the doctor had observed that the hymen was not intact, no other external injuries were found on the victim girl. The alleged occurrence is said to have taken place on 29.12.2019, whereas the complaint was lodged only on the next day on 30.12.2019 at about 02.30 p.m., and the FIR was sent to the learned Magistrate on 31.12.2019.

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7.Thus, it could be seen that the petitioner has raised several arguable points in the above appeal, which requires consideration. The appeal is not likely to be taken up in the near future. 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, Chengalpattu;

(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

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any other day in lieu of the date of his absence, as directed by the Trial Court.

29-10-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
TSG

Note: Issue order copy on 29.10.2026.

To

1.The Inspector of Police,
W-21, All Women Police Station,
Guindy, Chennai - 600 032.
Crime No.10 of 2019.

2. The Sessions Judge, Special Court for
Exclusive Trial of Cases under POCSO Act,
Chengalpattu.

3.The Superintendent,
Central Prison, Puzhal-1.

4.The Public Prosecutor,
Madras High Court.

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SUNDER MOHAN, J.

TSG

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