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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. 17163 of 2026
in CRL A No. 1138 of 2026

Mathibalan

..Petitioner(s)

Vs

The State Rep. by,
The Inspector of Police,
Kottucherry Police Station,
Karaikal.
(Crime No.133 of 2020)

..Respondent(s)

Prayer: The Criminal Miscellaneous Petition is filed under Section 430(1) of BNSS, to suspend the sentence and bail imposed in Spl.SC.No.11 of 2021 dt.12.02.2026 passed by the Special Judge under POCSO Act, Karaikal and enlarge the Petitioner on bail pending disposal of the above Criminal Appeal on the file of this Court.

For Petitioner(s): Mr.R.Thiyagu
for Mr.R.Sankarasubbu

For Respondent(s): Mr.A.Alexander,
Government Advocate
(Pondicherry)

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ORDER

The Criminal Appeal challenges the Judgment passed in Spl.SC.No.11 of 2021 by the learned Special Judge under POCSO Act, Karaikal, holding the petitioner guilty of the offences under Section 6 of the POCSO Act and sentencing him to 20 years rigorous imprisonment and to pay a fine of Rs.50,000/- and in default, to undergo six months rigorous imprisonment.

2. Aggrieved by the same, the petitioner has preferred Crl.A.No.1138 of 2026 before this Court along with the instant criminal miscellaneous petition.

3.It is the case of the prosecution that the petitioner, who was aged about 24 years and the victim, who was aged about 17 years, at the time of occurrence, had a long standing romantic relationship; that on the promise of marriage, the petitioner had committed penetrative sexual assault on the victim girl; that the victim girl had not informed her parents about the occurrences; that later when she was found eight months pregnant and delivered a male child, it was revealed that the petitioner had committed penetrative sexual assault; and thus, committed the

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aforesaid offences.

4.The learned counsel for the petitioner would submit that admittedly, it is a case of love affair; that the prosecution had not established the age of the victim; that the petitioner is in custody from 12.02.2026; that since a child has been born, to show his bona-fide, the petitioner is ready to deposit a sum of Rs.3,00,000/- to the credit of Spl.S.C.No.11 of 2021 before the trial Court, which may be withdrawn by the victim; that the petitioner has several arguable points in the above appeal, which requires consideration; and prayed for suspension of sentence.

5.The learned Additional Public Prosecutor *per contra* submitted that since the victim was a minor, consent is immaterial; that the DNA report clearly establishes that the petitioner is the biological father of the child born to the victim; that the petitioner, on the promise of marriage, had committed penetrative sexual assault on the victim girl; that therefore, no indulgence should be shown to the petitioner; and prayed for dismissal of the petition.

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

7.Admittedly, there was a love affair between the petitioner, aged about 24 years and the victim, aged about 17 years, at the time of occurrence. The victim had not revealed the consensual relationship she had with the petitioner until she was eight months pregnant and later delivered a child. It has to be examined in the appeal as to whether the conviction can be sustained on the sole testimony of the victim. The petitioner is in custody from 12.02.2026. The petitioner has raised several arguable points in the above appeal, which requires consideration. The petitioner has also agreed to deposit Rs.3,00,000/- to the credit of Spl.SC.No.11 of 2021, for the benefit of the minor child.

8.Considering all the above facts, this Court is inclined to suspend the sentence imposed on the petitioner and release him on bail, on the following conditions:

(a).The petitioner shall deposit a sum of Rs.3,00,000/- (Rupees Three Lakhs only) to the credit

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of Spl.SC.No.11 of 2021 before the Trial Court and on such deposit, the learned Trial Judge shall hand over the deposited amount to the victim, for the benefit of the minor child;

(b) 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 Special Judge, under POCSO Act Court, Karaikal;

(c)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

(d)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.

29-10-2026

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

Note: Issue order copy on 29.10.2026

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SUNDER MOHAN, J.

TSG

To

1.The Inspector of Police,
Kottucherry Police Station,
Karaikal.
(Crime No.133 of 2020).

2.The Special Judge under POCSO Act,
Karaikal.

3.The Superintendent,
Central Prison, Pondicherry.

4.The Public Prosecutor,
Madras High Court.

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