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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-11-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL MP No. 19470 of 2026
in CRL A No. 1259 of 2026

Natarajan

..Petitioner(s)

Vs

The State rep. By
The Inspector of Police
All Women Police Station,
Omalur, Salem District.
Crime No.21 of 2020.

..Respondent(s)

Prayer: The Criminal Miscellaneous Petition is filed under Section 430 (1) of BNSS, 2023, to suspend the sentence passed by judgment in Spl.S.C.No.60 of 2021 dated 30.12.2025 on the file of the Sessions Judge, The Principal POCSO Court, Salem and enlarge the petitioner on bail, pending disposal of the Criminal Appeal before this Court.

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

ORDER

The appeal challenges the Judgment passed in Spl.S.C.No.60 of 2021 convicting the petitioner for the offences under Sections 366 and 342 IPC and Section 5(m) r/w 6 of the POCSO Act and sentencing him as below;

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Conviction under Section	Sentence imposed
366 IPC	To undergo 5 years RI and to pay a fine of Rs.1,000/- (id) to undergo 6 months SI
342 IPC	To undergo one month SI
5(m) r/w 6 of the POCSO Act	To undergo 20 years RI and to pay a fine of Rs.1,000/- (id) to undergo one year SI

The sentences were ordered to run concurrently.

2.It is the case of the prosecution that the petitioner had kidnapped the victim girl to a secluded place and committed penetrative sexual assault on 20.11.2020 at about 12.00 noon; and that when the victim's mother came near the place of occurrence, the petitioner had fled from the scene of occurrence. The trial Court convicted the petitioner for the offences under Sections 366 and 342 IPC and Section 5(m) r/w 6 of the POCSO Act on the basis of the evidence adduced and sentenced him as stated above.

3.The learned counsel for the petitioner would submit that the victim had stated that the petitioner had hugged and kissed her and had not stated about any penetrative sexual assault; that even the complaint has been filed for the offences under Section 9(m) r/w 10 of the POCSO Act; that the victim in her

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statement before the Magistrate and in her deposition had stated that the petitioner had hugged and kissed her; and that therefore, the impugned Judgment convicting the petitioner for the offence under Section 5(m) r/w 6 of the POCSO Act, is liable to be set aside. He would further submit that though the alleged occurrence is said to have taken on 20.11.2020 and is said to have been witnessed by the mother of the victim, no complaint was lodged till 27.11.2020 and that the delay in filing the complaint is fatal to the prosecution.

4.Heard the learned Additional Public Prosecutor and perused the counter affidavit.

5.Admittedly, the victim in her statement before the Magistrate and in her deposition had only stated that the petitioner had hugged and kissed her. The alleged occurrence took place on 20.11.2020 and there is no explanation as to why the complaint was not lodged till 27.11.2020. Therefore, there is force in the submission of the learned counsel for the petitioner that the offence under Section 5(m) r/w 6 is not made out.

6.The petitioner is in custody since 30.12.2025. 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.

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7.Accordingly, this criminal miscellaneous petition stands allowed, and the sentence imposed on the petitioner is suspended till the disposal of the above criminal appeal, 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, Principal POCSO Court, Salem;

(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.

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

TSG

Note: Issue order copy on 25.11.2026.

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To

1.The Inspector of Police
All Women Police Station,
Omalur, Salem District.
Crime No.21 of 2020.

2.The Sessions Judge,
The Principal POCSO Court,
Salem.

3.The Superintendent,
Salem Central Prison,
Salem.

4.The Public Prosecutor,
Madras High Court.

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SUNDER MOHAN, J.

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