WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-10-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL MP No.20013 of 2026
in
Crl.A.No.1299 of 2026

Yesuraj,
S/o.Loordhusamy,
Ricemill Backside,
Ponpathi Village,
Gingee Taluk,
Villupuram District.

...Petitioner/Appellant

Vs

The State of Tamil Nadu
Rep.by, Inspector of Police,
All Women Police Station,
Gingee,
Villupuram District.
Cr.No.26/2022.

...Respondent/
Complainant

Prayer : Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, to suspend the sentence imposed on the petitioner in Spl.S.C.No.15 of 2023 dated 31.08.2026 on the file of the Court of Sessions Mahalir Needhimandram (Fast Track Mahila Court), Villupuram and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

https://www.mhc.tn.gov.in/judis

WEB COPY

For Petitioner: Mr.M.Himavanth

For Respondent: Ms.Sharada Vivek
Additional Public Prosecutor

ORDER

The Criminal Appeal challenges the Judgment passed in Spl.SC.No.15 of 2023 on the file of the learned Sessions Judge, Court of Sessions, Mahalir Needhimandram (Fast Track Mahila Court), Villupuram, by holding the petitioner guilty of the offences under Sections 366 and 344 of the Indian Penal Code, 1860 (hereinafter referred to as ***"the IPC")*** and Section 5(1) r/w 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as ***the POCSO Act***) and sentenced him as follows:

Offence under Section	***Sentence imposed***
366 IPC	To undergo rigorous imprisonment for seven years and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for further period of one month.

https://www.mhc.tn.gov.in/judis

WEB COPY

344 IPC	To undergo rigorous imprisonment for two years and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for a further period of one month.
5(l) r/w 6 of the POCSO Act.	To undergo rigorous imprisonment for ten years and to pay a fine of Rs.5,000/-, in default to undergo simple imprisonment for a further period of one month.
The sentences were ordered to run concurrently.	

2. Aggrieved by the same, the petitioner has preferred Crl.A.No.1299 of 2026 before this Court along with the instant criminal miscellaneous petition.

3. The case of the prosecution is that the appellant, aged about 22 years, and the victim, aged about 15 years at the time of occurrence, were known to each other; that they got married; and that thereafter, the appellant had committed penetrative sexual assault on the victim on several occasions and thus committed the aforesaid offences.

https://www.mhc.tn.gov.in/judis

WEB COPY

4. The learned counsel for the petitioner would submit that the victim had made an exaggerated version in her deposition; that in her earliest version given to the learned Magistrate under Section 164 of Cr.P.C., she had not referred to any alleged penetrative sexual assault; that the evidence of the Doctor would suggest that the victim was not subjected to penetrative sexual assault and she had opined that there were no external injuries and sexual intercourse cannot be substantiated only with the finding that the hymen was not intact; and that the prosecution had also not established the age of the victim in the manner known to law, as the *bona fide* certificate issued by the school was not proved by examining the school authorities, and prayed for suspension of sentence pending disposal of the appeal.

5. Heard the learned Additional Public Prosecutor for the respondent and perused the counter-affidavit.

6. The appellant was aged 22 years at the time of occurrence, and according to the prosecution, the victim was aged 15 years. The question as to whether the prosecution had established the age of the victim has to

https://www.mhc.tn.gov.in/judis

WEB COPY

be examined in the appeal, as the *bona fide* certificate of the victim was not marked through the School Authorities.

7. That apart, the victim had not referred to any alleged penetrative sexual assault in her statement given to the learned Magistrate under Section 164 Cr.P.C. She had made an improvement in her deposition. Her evidence is also contrary to medical evidence. Therefore, it has to be examined in the appeal as to whether the finding of guilt can be recorded on the sole testimony of the victim. The appeal is not likely to be taken up in the near future.

8. Considering all the above facts, and since the petitioner has made out a *prima facie* case for suspension of sentence, 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:

https://www.mhc.tn.gov.in/judis

WEB COPY

(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, Court of Sessions, Mahalir Needhimandram (Fast Track Mahila Court), Villupuram;

(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.

30-10-2026

dk

Note: Issue order copy today.

https://www.mhc.tn.gov.in/judis

WEB COPY

Copy to

1. The Sessions Judge,
   The Court of Sessions Mahalir Needhimandram,
   (Fast Track Mahila Court),
   Villupuram.

2. The Superintendent of Prison,
   Central Prison – Villupuram.

3. The Inspector of Police
   All Women Police Station,
   Gingee,
   Villupuram District.

4. The Public Prosecutor,
   High Court of Madras,
   Chennai – 600 104.

https://www.mhc.tn.gov.in/judis

WEB COPY

SUNDER MOHAN, J.

dk

CRL MP No.20013 of 2026
in
Crl.A.No.1299 of 2026

30-10-2026

https://www.mhc.tn.gov.in/judis