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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-11-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL MP No. 290 of 2026
in Crl A No.525 of 2023

Rabinishka

..Petitioner(s)

Vs

The State,
Rep. by the Inspector of Police,
All Women Police Station,
Kangayem, Tiruppur District.
Crime No. 15/2020.

..Respondent(s)

Prayer: The Criminal Miscellaneous Petition is filed under Section 430(1)of BNSS, to suspend the sentence dated 28.02.2022 passed in Spl.S.C.No. 80 of 2020, on the file of the learned Mahila Judge (Sessions Judge, full additional in charge) Tiruppur and enlarge the petitioner on bail pending disposal of the aforesaid appeal.

For Petitioner(s): Mr.S.Silambuselvan
For Respondent(s): Ms.Sharada Vivek,
Additional Public Prosecutor

ORDER

The appeal challenges the Judgment passed in Spl.S.C.No.80 of 2020 holding the petitioner guilty of the offence under Section 5(m) r/w 6 of the POCSO Act and sentencing him to twenty years rigorous imprisonment and to pay a fine of Rs.10,000/- and in default, to undergo one year rigorous imprisonment.

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2.The case of the prosecution is that the petitioner and the victim were known to each other; that on the date of occurrence on 18.10.2020 at about 06.00 p.m., the petitioner took the victim to his house and closed the door; that he had removed the dress of the victim and placed his private part on the private part of the victim and committed penetrative sexual assault on the victim; and thus, committed the aforesaid offence.

3.The learned counsel for the petitioner would submit that the deposition of the victim before the Court is contrary to her statement given before the Magistrate under Section 164 Cr.P.C.; that the victim had not alleged penetrative sexual assault even in her deposition before the Court; that the medical evidence clearly rules out penetrative sexual assault as the doctor had stated that the victim did not sustain any external injuries and her hymen was intact. The learned counsel further submitted that the petitioner is in custody from 20.10.2020 and hence, prayed for grant of suspension of sentence.

4.The learned Additional Public Prosecutor *per contra* submitted that the victim's evidence in Court is cogent and convincing and that the absence of corroboration in the medical evidence would be immaterial in the facts and circumstances of the case. A counter has been filed by the respondent to that effect.

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5.The petitioner is in custody form 20.10.2020. The doctor, who had examined the victim had stated that there were no external injuries on the genital part of the victim girl and found the hymen to be intact. The victim in her earliest version given to the Magistrate under Section 164 Cr.P.C., had not referred to any penetrative sexual assault. In her deposition, she had made an improvement and even in that improved version, she had not alleged penetration. In the light of the above evidence, it has to be examined in the appeal as to whether the conviction can to be sustained on the sole testimony of the victim.

6.The appeal is not likely to be taken up in the near future. Considering all the above facts and the fact that 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.

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, 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 Mahila Judge (Sessions Judge, full additional in charge) Tiruppur;

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(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.

11-11-2026

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

TSG

Note: Issue order copy on 11.11.2026

To

1.The Inspector of Police,
All Women Police Station,
Kangayem, Tiruppur District.
Crime No. 15/2020.

2.The Sessions Judge,
(Full additional in charge)
Mahila Court, Tiruppur.

3.The Superintendent,
Central Prison,
Coimbatore.

4.The Public Prosecutor,
Madras High Court.

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SUNDER MOHAN, J.

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