



WEB COPY

CRL MP No. 717 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-02-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

**CRL MP No. 717 of 2026 in
Crl.A.No.41 of 2026**

Vicky@vignesh
S/o.Arul,
No.8, GK Mooppanar Street,
Dr.Ambedkar Puratchi Nagar,
Perungudi,
Chennai-96.

..Petitioner(s)

Vs

State rep.by, Inspector of Police,
J-9 Thuraipakkam Police Station.

..Respondent(s)

PRAYER : Criminal Miscellaneous Petition has been filed under Section 389(1) of Cr.P.C., to suspend the sentence imposed by the Learned Appellate Court in a judgment dt. 2.7.2025 made in Spl.S.C.No. 141/2023 on the file of Learned Sessions Judge Special Court for Exclusive Trial of cases under POCSO Act, Chengalpattu and enlarge him on bail, pending disposal of the Criminal Appeal.

For Petitioner(s): Mr.S.AZHAGUVEL

For Respondent(s): Mr.S.Balaji, GA

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner *vide* judgment dated 2.7.2025 made in Spl.S.C.No. 141/2023 on the file of Learned Sessions Judge, Special Court for



Exclusive Trial of cases under POCSO Act, Chengalpattu and enlarge him on bail, pending disposal of the Criminal Appeal.

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2. The petitioner/accused in Spl.S.C.No.141 of 2023 was convicted by the Trial Court by judgment dated 2.7.2025, for the offences under Section 366 of IPC and 3(a) r/w 4(2) of POCSO Act and sentenced to undergo imprisonment of 10 years and to pay a fine of Rs.1000/- i/d to undergo S.I. for one year, for the offence under Section 366 of IPC and sentenced to undergo R.I. for 20 years and to pay a fine of Rs.1000/- i/d to undergo S.I. for one year, for the offence under Section 4(2) of POCSO Amendment Act, 2019. Aggrieved by the same, he filed Crl.A.No.41 of 2026 before this Court along with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

3.The case of the prosecution is that the petitioner who was aged about 20 years at the time of occurrence, had committed penetrative sexual assault on the victim girl aged about 13 years at the time of occurrence; that the petitioner had expressed his love for the victim and took her to his brother's house on 14.01.2021 and committed penetrative sexual assault on the night of 14.01.2021; thereafter, the victim's parents had taken the victim from the house of the petitioner's brother and lodged a complaint; and thus, the petitioner committed the aforesaid offences.



4.The learned counsel for the petitioner would submit that the victim had made contrary statement before the learned Magistrate and in the deposition before the Court; that the evidence of the doctor did not support the case of the prosecution with regard to the alleged offence of penetrative sexual assault; that the victim has now filed an affidavit before this Court stating that the petitioner is not guilty of any offence; and that he further submitted that, in any case, the allegations only disclose consensual affair between the two youngsters and prayed for suspension of sentence.

5.The learned Government Advocate(Crl. Side), per contra, would submit that the victim had filed the affidavit on compulsion and on enquiry, it was found that the victim had made the statement in the affidavit without the knowledge of her parents. The learned Government Advocate (Crl.Side) has filed a report of the Assistant Commissioner of Police, Tharamani, to that effect; he would further submit that even assuming that the victim had consented to the sexual intercourse, her consent is immaterial as she was hardly 13 years old at the time of occurrence; and therefore, the impugned judgment is justified and does not call for any interference.

6.It is seen that the victim's statement before the Magistrate is contrary to her version in the Court. The victim had not accused the petitioner of



penetrative sexual assault in her earlier version before the Magistrate. The evidence of the doctor also does not suggest that the victim was subjected to forcible sexual intercourse. The petitioner was aged about 20 years at the time of occurrence. This Court has to examine whether the conviction can be sustained on the sole testimony of the victim in the light of her affidavit filed before this Court, though it is now stated by the respondent that it was filed under compulsion.

7. Considering the above facts and the age of the petitioner and since the appeal is not likely to be taken in the near future, 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:

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of POCSO Act Cases, Chengalpattu;
- (ii) 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

(iii) The petitioner shall appear before the Trial Court every week on Monday 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.

19-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

GSK

To,

1. The Inspector of Police,
J-9 Thuraipakkam Police Station.

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

3. The Public Prosecutor,
High Court of Madras.



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SUNDER MOHAN, J.

GSK

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