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Crl.M.P. No. 3587 of 2026
in
Crl.A. No. 237 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2026

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P. No. 3587 of 2026
in
Crl.A. No. 237 of 2024

Kumar

..Petitioner

Vs.

State rep by Inspector of Police,
All Women Police Station,
Palladam.
(Crime No. 13 of 2021)

..Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 430(1) of BNSS praying to suspend the sentence imposed on the petitioner by judgment dated 06.11.2023 passed in Spl.S.C. No. 71 of 2022 by the Magalir Neethimandram, (Fast Track Mahila Court), Tiruppur and release the petitioner on bail pending disposal of the above appeal.

For Petitioner	::	Ms.S. Valarmathi
For Respondent	::	Mr.S. Balaji, Govt. Addvocate (Crl.Side)



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ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by judgment dated 06.11.2023 passed in Spl.S.C.No.71/2022 by the Magalir Neethimandram, (Fast Track Mahila Court), Tiruppur, pending disposal of the above criminal appeal and enlarge the petitioner on bail.

2. The petitioner/accused in Spl.S.C.No.71/2022 was convicted by the Trial Court by judgment dated 06.11.2023, for offences under Sections 5 (m) r/w 6 of POCSO Act and Section 366 IPC and sentenced to undergo 20 years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo rigorous imprisonment for three months for the offence under Section 5(m) r/w 6 of POCSO Act and to undergo 5 years rigorous imprisonment together with a fine of Rs.1000/- carrying a default sentence of rigorous imprisonment for 3 months for the offence under Section 366 IPC . Aggrieved by the same, he filed Crl.A.No.237 of 2024 before this Court along with the instant criminal miscellaneous petition seeking suspension of sentence and bail.



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3. The case of the prosecution is that the victim and the petitioner are known to each other; that the petitioner, on the date of occurrence, ie., on 06.12.2021, had inappropriately touched the victim's private part and also asked the victim to touch his private part and thus committed the aforesaid offence.

4. The learned counsel for the petitioner would submit that the allegations against the petitioner are false; that the defence has substantiated the fact that the victim's parents and the parents of the petitioner's granddaughter have a landlord-tenant dispute due to which the petitioner has been victimised; that the medical evidence does not corroborate the evidence of the victim; that the petitioner is in custody from 06.11.2023 and even during investigation from 07.12.2021 to 19.02.2022, he was in custody; that the offence under Section 5(m) r/w 6 of POCSO Act is not made out even if the prosecution case is accepted as true; that the petitioner is an aged person and that he is in custody for more than 2 years, and prayed for suspension of sentence.

5. Learned Government Advocate (Crl.Side), per contra, would submit that the allegations against the petitioner would suggest that he



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is liable for the offence under Section 5(m) r/w 6 of POCSO Act and the Doctor's evidence would show that the victim had complained of irritation in her private part.

6. It is seen that the petitioner is in custody from 06.11.2023. The question which has to be examined in the above appeal is whether the victim can be believed and even if she is believed, whether the allegation would constitute an offence under Section 6 of POCSO Act or Section 10 of POCSO Act. The Doctor, who examined the victim has opined that there was no external injury in the private part of the victim and that the hymen was intact. The petitioner has also established that there was prior enmity between the family of the petitioner and that of the victim on account of landlord-tenant dispute. Considering all the above facts and the fact that the petitioner is in custody from 06.11.2023, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

7. Accordingly, the criminal miscellaneous petition stands allowed and the sentence imposed on the petitioner is suspended, pending disposal of the above criminal appeal and the petitioner is ordered to be released on bail on the following conditions:



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(i)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 Magalir Needhimandram, (Fast Track
Mahila Court), Tiruppur;

(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 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.

27.02.2026

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To

1. The Magalir Needhimandram,
Fast Track Mahila Court, Tiruppur.

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SUNDER MOHAN,J.

nv

2. The Superintendent,
Central Prison, Coimbatore.
3. Inspector of Police,
All Women Police Station,
Palladam.
4. The Public Prosecutor,
High Court, Madras.

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