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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-11-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL MP No. 545 of 2026
in CRL A No.1353 of 2025

G.Rajkumar

..Petitioner(s)

Vs

The State of Tamil Nadu
Rep by the Inspector of Police,
All Women Police Station,
Polur, Tiruvannamalai District.

..Respondent(s)

Prayer: The Criminal Miscellaneous Petition is filed under Section 430(1) of BNSS, 2023, to suspend the sentence imposed on the petitioner on the Principal Sessions Judge, Magalir Neethi Mandram, (Fast Track Mahila Court), Tiruvannamalai in S.C.No.124 of 2009 dated 30.04.2025 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal on the file of this Court.

For Petitioner(s): Mr.M.Sankar

For Respondent(s): Mr.R.Thirumoorthy,
Additional Public Prosecutor

ORDER

The appeal challenges the Judgment passed in S.C.No.124 of 2009 holding the petitioner guilty of the offences under Section 341 and 376 IPC and sentenced him as stated below.

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Conviction under Section	Sentence imposed
341 IPC	To undergo one month SI
376 IPC	To undergo 10 years RI and to pay a fine of Rs.5,000/- (id) to undergo three months SI

The sentences were ordered to run concurrently.

2.It is the case of the prosecution that the petitioner had committed rape on the victim girl, aged about 12 years, on 24.12.2008 at about 07.00 p.m. in a bush near her house. The trial Court convicted the petitioner for the offences under Sections 341 and 376 IPC and sentenced him as stated above.

3.The learned counsel for the petitioner would submit that the victim's evidence, even if it is accepted to be true, would clearly show that she had sexual intercourse with the petitioner multiple times; that the allegation that the petitioner raped the victim once is false; that the prosecution had not established that the victim was 12 years old at the time of occurrence; that the doctor, PW17, who had conducted bone ossification test, opined that the victim was aged above 14 years and below 17 years; that margin has to be allowed; and that in view of the victim's consent, the offence of rape would not be made out.

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

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5.It is seen from the evidence of the victim that she had sexual intercourse with the petitioner on several occasions prior to 24.12.2008 and that she had not disclosed those occurrences to any one, which *prima facie* probabilises the defence case that there was consent. Though it is the case of the prosecution that the victim was 12 years old at the time of occurrence, the prosecution had not produced any evidence to prove her age, except for the report of PW17, the doctor who conducted bone ossification test, and opined that the victim could be aged above 14 years and below 17 years. The occurrence had taken place in the year 2008 and the age of consent was 16 years at the relevant point of time. Therefore, it has to be examined in the above appeal, whether the offence of rape has been made out.

6.The petitioner is in custody from 30.04.2025. The appeal is not likely to be taken up in the near future. Taking into consideration the nature of allegation, the period of incarceration and all other facts, 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:

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(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 Principal Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Tiruvannamalai;

(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.

23-11-2026

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

TSG

Note: Issue order copy on 23.11.2026.

To

1.The Inspector of Police,
All Women Police Station,
Polur, Tiruvannamalai District.

2.The Principal Sessions Judge,
Magalir Neethi Mandram,
Fast Track Mahila Court,
Tiruvannamalai.

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3.The Superintendent,
Central Prison, Vellore.

4.The Public Prosecutor,
Madras High Court.

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SUNDER MOHAN, J.

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