



Crl.MP(MD) No.4776 of 2026
Crl.A(MD) No.429 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :29.04.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.MP(MD) No.4776 of 2026

in

Crl.A(MD) No.429 of 2024

Balakrishnan

... Petitioner

Vs

1.The State of Tamilnadu,
Rep. by the Inspector of Police,
Madurai Town All Women Police Station,
Madurai City.

2.Barakkath Nisha

... Respondents

Prayer :- This Criminal Miscellaneous Petition is filed under Section 430(1) of BNSS, 2023 to suspend the sentence imposed on the petitioner in Spl.S.C.No.198 of 2021, dated 12.04.2024, on the file of the Special Court for exclusive trial of cases under POCSO Act, Madurai District, and enlarge him on bail pending disposal of the criminal appeal.



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For Petitioner : Mr.A.B.Jeeva
For Respondent : Mr.A.S.Abul Kalaam Azad
Government Advocate (Crl.side)

ORDER

The petitioner is the sole accused in Spl.S.C.No.198 of 2021, on the file of the Special Court for exclusive trial of cases under POCSO Act, Madurai. He was tried by the trial Court that he has coerced the victim child, aged about 5 years to touch his private part. The trial Court has found the petitioner guilty, convicted and sentenced as under:-

Sl.No	Sections	Punishment	Fine amount	Default
1.	9(m) of POCSO Act, 2012	5 years Rigorous imprisonment	Rs.25,000/-	One year rigorous imprisonment

As against the conviction and sentence imposed by the trial Court in Spl.S.C.No.198 of 2021, dated 12.04.2024, the petitioner has filed a Criminal Appeal in Crl.A(MD) No.429 of 2024 and the same was admitted by this Court, by order, dated 16.05.2024. The petitioner has



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also moved applications thrice to suspend the sentence imposed on him by the trial Court and all the applications were dismissed by this Court. While dismissing the earlier applications, this Court has observed that this petitioner is not entitled for suspension of sentence at that point of time. This is the fourth application filed by this petitioner seeking suspension of sentence.

2.The learned counsel appearing for the petitioner submits that this petitioner was convicted for a period of five years and he has almost completed half of the sentence as on date. The allegation as against this petitioner is that this petitioner has compelled the victim child, aged about 5 years to touch his private part. However, that has not been established by the prosecution beyond all reasonable doubts. There is no other evidence other than the statement of the victim child to support the case of the prosecution. The victim child was aged about five years at the time of occurrence. There are certain contradictions in the evidence of the victim child in the statement recorded under



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section 164 Cr.P.C and before the trial Court and according to the learned counsel, certain things have been exaggerated. The prosecution has projected PW 7 has supported the case of prosecution as if this petitioner was found in upstairs of the building. However, this witness has turned hostile.

3. The learned Government Advocate (Crl.side) appearing for the respondent submits that the victim child was aged about five years and this petitioner has compelled her to touch his private part. This has been stated by the victim child in the statement recorded under Section 164 of Cr.P.C., and also before the trial Court. This is a clear case of abuse of a child and therefore, this petition needs to be dismissed. According to the learned Government Advocate, there is no change in circumstances after the dismissal of the earlier applications.

4.This Court considered the rival submissions made and also perused the materials placed on record.



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5.The allegation as against this petitioner is that this petitioner has compelled the victim child aged about five years to touch his private part. When the child was examined under Section 164 of Cr.P.C, immediate to the occurrence, she has not stated the incident as projected by the prosecution, whereas, when she was examined before the trial Court, she has given her statement by referring to the private part of the petitioner that she has been compelled to touch his private part. It appears that there are some difference in the evidence of the victim child in her statement recorded under Section 164 of Cr.P.C and her evidence before the trial court. Admittedly, this petitioner is in jail from 12.04.2024. According to the petitioner, he was convicted for a period of five years and this petitioner has almost completed half of the sentence.

6.The petitioner has raised certain arguable points, which can be considered only during the final hearing of the criminal appeal.



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However the appeal could not be taken up immediately, for want of time. Considering the period of incarceration and that the appeal could not be taken up immediately, this Court is inclined to suspend the sentence imposed on him. However, considering the objections raised by the learned Government Advocate (Crl.side), this Court imposes certain stringent conditions.

7. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioner is ordered to be enlarged on bail on the following conditions:-

- i. The petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand) with two sureties each for a like sum to the satisfaction of the learned Judge, Special Court for exclusive trial of cases under POCSO Act, Madurai District.



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- ii. The persons, who are offering surety to the petitioner must file an affidavit of undertaking before the respondent police, ensuring that the petitioner would not visit the occurrence village pending the appeal, would not disturb the victim child and her family and also he would be available during the final hearing of the appeal. The petitioner shall also file an affidavit to that effect.
- iii. The petitioner shall stay at Tiruppur and report before the Inspector of Police, Tiruppur South Police Station, Tiruppur. daily at 10.30 a.m, until further orders.
- iv. In the event, if there is any change in address of the petitioner, the same shall be duly informed to the respondent police without fail.



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v. If the petitioner violates any of the above conditions, it is open to the respondent police to file an application to cancel the bail granted to him.

29.04.2026

Index : Yes/No
Internet : Yes/No
vrn



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To

- 1.The Special Court for exclusive trial of cases under POCSO Act,
Madurai District,
- 2.The Inspector of Police,
Madurai Town All Women Police Station,
Madurai City.
- 3.The Inspector of Police,
Tiruppur South Police Station,
Tiruppur.
- 4.The Superintendent,
Central Prison,
Madurai.

Copy to

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.,

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