



CrIMP(MD)No.4292 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**CrIMP(MD)No.4292 of 2025
in
CrIA(MD)No.409 of 2025**

Suresh

...Petitioner

Vs

State of Tamil Nadu represented by
the Inspector of Police,
All Women Police Station- Kanyakumari,
Kanyakumari,
Kanyakumari District.
[Crime No.12 of 2018]

... Respondent

PRAYER: Petition filed under Section 430(2) of Bharatiya Nagarik Suraksha Sanhita, to suspend the sentence imposed on the petitioner by the Special Court for Exclusive Trial of Cases under POCSO Act / Mahila Court, Nagercoil, Kanyakumari District in Spl.SC.No.6 of 2019 by the judgment dated 24.06.2024 and enlarge the petitioner on bail pending disposal of the above appeal

For Petitioner : Mr.N.Pragalathan

**For Respondent : Mr.AS.Abul Kalaam Azad,
Government Advocate**



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ORDER

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The petitioner is sole accused in Spl.SC.No.6 of 2019 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act / Mahila Court, Nagercoil, Kanyakumari District. By judgment dated 24.06.2024 the petitioner was found guilty, convicted for the offence under Section 7 and 8 of the POCSO Act and sentenced to undergo three years imprisonment with a fine of Rs.1,000/- in default, to undergo three months imprisonment and under Section 9(m) and 10 of the POCSO Act, to undergo five years imprisonment with fine of Rs.1000/-in default, to undergo six months imprisonment. As against the conviction and sentence imposed by the trial Court, this petitioner has filed an appeal before this Court in Crl.A(MD)No.409 of 2025 and the same has been admitted by this Court on 01.04.2025. Along with the appeal, the petitioner has filed this petition to suspend the sentence.

2.The case of the prosecution is that when the victim was playing along with her sister, the petitioner is said to have taken her to a remote place and shown his private part and asked her to touch it, she refused to do so and raised an alarm. Thereafter her mother came and rescued the victim girl.



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3.The learned counsel for the petitioner submits that the incident is said to have taken place on 25.03.2018, but the complaint was lodged on 23.04.2018. Though the Child Welfare Officer in her evidence has stated that she has lodged a complaint, it is not registered and also not marked during the trial. There are contradictory evidence in respect of the occurrence place and time among PW1, PW2 and PW6. There is a motive between the petitioner and the victim's family regarding the temple festival and therefore, this complaint has been foisted. He further submits that the petitioner is in jail for more than 2 years.

4.The learned Government Advocate appearing for the respondent strongly opposed this petition that the incident took place on 25.03.2018 and it was informed to the Child Welfare Officer / PW3. The Child Welfare Officer has stated that she enquired the victim and she has lodged a complaint. He further submits that since the complaint was not registered, PW1 has lodged a complaint on 23.04.2018 and therefore, the entire case of the prosecution cannot be denied. The victim was also produced before the court for examination under Section 164 CrPC. This delay aspect has also been considered by the trial court and



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answered. Further the motive has also been discussed by the trial court and it was not substantiated with any materials, but only a suggestion.

5.This court has considered the rival submissions made.

6.The case of the prosecution is that on 25.03.2018 the petitioner has taken the victim girl to a remote place, asked her to touch his private part, but she did not touch. However, complaint was lodged on 23.04.2018. Though the prosecution claims that the victim's mother informed the same to the child welfare officer, she has admitted that she has enquired and also lodged a complaint, no such complaint has been placed before the court. The petitioner is in jail for 2 years. The petitioner has raised certain arguable points in this petition, which can be considered only during the final hearing of the appeal. However the appeal could not be taken up for final hearing for want of time. Considering the period of incarceration already undergone and for the reason that the appeal could not be taken up immediately, this Court is inclined to allow this petition, however with stringent conditions.



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7. Accordingly this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended pending disposal of the criminal appeal on the following conditions:

(i) The petitioner is ordered to be enlarged on bail on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand) with two sureties each for a like sum to the satisfaction of the Special Court for Exclusive Trial of Cases under POCSO Act / Mahila Court, Nagercoil, Kanyakumari District.

(ii) The petitioner and the sureties shall file an affidavit before the respondent police that the petitioner will not misuse this liberty and will not indulge in any further offence.

(iii) The petitioner shall stay at Tiruppur and report before the Inspector of Police, Tiruppur South Police Station daily at 10.30 am.

(iv) If the petitioner violates any of the conditions, the respondent police shall move an application to cancel the order of suspension of sentence of imprisonment.

27.03.2026

DSK



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To

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- 1.The Inspector of Police,
All Women Police Station- Kanyakumari,
Kanyakumari,
Kanyakumari District.
- 2.The Special Court for Exclusive
Trial of Cases under POCSO Act /
Mahila Court,
Nagercoil, Kanyakumari District.

Copy to

- 1.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 2.The Inspector of Police,
Tiruppur South Police Station



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B.PUGALENDHI.J.,

DSK

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