



*Crl.MP(MD) No.11064 of 2023 in
Crl.A(MD) No.633 of 2023*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :30.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.11064 of 2023
in Crl.A.(MD)No.633 of 2023

Anandharaj

... Petitioner

Vs.

State,
Rep by the Inspector of Police,
All Women Police Station,
Pattukottai,
Thanjavur District.
Crime No.10/2018

... Respondent

Prayer: Petition filed under Section 389(2) of Cr.P.C. to suspend the execution of the sentence of imprisonment imposed by Principal Special Court for Exclusive Trial of cases under POCSO Act, Thanjavur in Spl.S.C.No.96 of 2019, dated 14.02.2023 and enlarge the petitioner / appellant on bail.

For Petitioner : Mr.M.Karunanithi

For Respondent : Mr.A.S.Abul Kalam Azad
Government Advocate (Crl. Side)



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ORDER

The petitioner, an accused in Spl.S.C.No.96 of 2019, on the file of the learned Sessions Judge, Principal Special Court for Exclusive Trial of cases under POCSO Act, Thanjavur was found guilty by the trial Court and was convicted and sentenced as under:-

Sl.No	Sections	Punishment	Fine amount	Default
1	5(l), 6 of POCSO Act	20 years RI	Rs.50,000/-	1 year RI

As against the conviction and sentence imposed by the trial Court in Spl.S.C.No.96 of 2019, dated 14.02.2023, the petitioner has filed a Criminal Appeal in Crl.A(MD)No.633 of 2023 and the same was admitted by this Court on 02.08.2023. The petitioner has also moved this application to suspend the sentence imposed on him by the trial Court.

2. The learned counsel appearing for the petitioner submits that the petitioner is no way connected with the victim girl. However, the victim girl has implicated him as an accused in order to safeguard A2. According to the learned counsel, originally complaint was lodged on



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13.07.2018 as against this petitioner that this petitioner, who is a friend of the victim girl's brother had love affair with her and also had physical relationship with her. The victim girl got pregnant and she also delivered a child on 17.11.2018. Thereafter, DNA test was taken on 15.12.2018. However, it does not match with this petitioner and therefore, the victim was examined again and she has stated that A2, one Balraj had physical relationship with her for several times. Thereafter, another test was taken on 30.05.2019 and the DNA test results matched with A2. Since the victim has pointed as against A1 and A2, that they had physical relationship with her, the respondent Police registered case as against this petitioner also and filed final report as against him. Based on the evidence of the victim girl, the trial Court, convicted and sentenced the petitioner. According to the learned counsel, this petitioner is in jail from the date of conviction and was also in jail during the trial.

3. The learned Government Advocate appearing for the respondent submits that the victim girl was aged about 15 years at the time of occurrence and this petitioner was aged about 22 years. He is a friend of the victim's brother. Taking advantage of the same, this petitioner had



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physical relationship with the victim and on knowing about the same, A2 also had physical relationship with the victim girl. DNA test against this petitioner showed negative results and the DNA test against A2 showed positive results.

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

5. The petitioner has been prosecuted only based on the evidence of the victim girl. The victim girl has initially stated that this petitioner had physical relationship and he is responsible for the pregnancy. However, DNA test conducted on 15.12.2018 as against this petitioner showed negative result. Only thereafter, during the course of enquiry, the victim girl told the role played by A2. Thereafter, another DNA test was taken and A2 was found to be responsible for the pregnancy of the victim child. The victim child deliberately suppressed the role of A2 and has pointed out this petitioner and therefore, the entire prosecution was against this petitioner till the second DNA test i.e., May 2019.



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6. The petitioner has raised certain arguable points, which can be considered only during the final hearing of the appeal. The petitioner is in jail for the past three years. However the appeal could not be taken up for final hearing for want of time. Considering the points raised by the petitioner, his period of incarceration and for the reasons that the appeal could not be taken up immediately, this Court is inclined to suspend the sentence imposed on the petitioner.

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.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Principal Special Court for Exclusive Trial of cases under POCSO Act, Thanjavur.
- ii. The petitioner shall report before the learned Sessions Judge, Principal Special Court for Exclusive Trial of cases under POCSO Act, Thanjavur, on the first working day of every English



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Calender month at 10.30 a.m., till the disposal of the appeal.

- iii. The petitioner shall file an affidavit of undertaking before the learned Judge that he will not involve in any offence in future.
- iv. In the event, if the petitioner has violated any of the above conditions, it is open to the respondent police to file an application to cancel the bail granted to him.

30.03.2026

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To

1.The learned Sessions Judge,
Principal Special Court for Exclusive
Trial of cases under POCSO Act, Thanjavur.

2.The Inspector of Police,
All Women Police Station,
Pattukottai,
Thanjavur District.

3.The Superintendent,
Central Prison,
Trichy.

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



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B.PUGALENDHI, J.,

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