



*CrI.MP(MD) No.9673 of 2024 in
CrI.A(MD) No.212 of 2021*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :06.04.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CrI.M.P.(MD)No.9673 of 2024
in CrI.A.(MD)No.212 of 2021

Balamurugan @ Balu

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
All Women Police Station,
Alangudi,
Pudukkottai District.
Crime No.7/2019

... Respondent

Prayer: Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed by the learned Sessions Judge, Mahila Court, Pudukkottai by its Judgment dated 16.04.2021 in Spl.S.C.No.5 of 2020, pending disposal of this appeal.

For Petitioner : Mr.K.Balasundaram
Senior Counsel
for Mr.R.Paranjothi
for M/s.KBS Law Office

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



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ORDER

The petitioner, sole accused in Spl.S.C.No.5 of 2020, on the file of the learned Sessions Judge, Mahila Court, Pudukkottai was found guilty by the trial Court and was convicted and sentenced as under:-

Sl.No	Sections	Punishment	Fine amount	Default
1	Section 5(m) r/w 6 of POCSO Act	10 years RI	Rs.25,000/-	3 months SI

As against the conviction and sentence imposed by the trial Court in Spl.S.C.No.5 of 2020, dated 16.04.2021, the petitioner has filed a Criminal Appeal in Crl.A(MD)No.212 of 2021 and the same was admitted by this Court on 29.04.2021. Along with the appeal, the petitioner has moved several applications to suspend the sentence imposed on him by the trial Court and the same were dismissed. This is fifth such application for grant of suspension of sentence.



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2. The case of the prosecution is that on 30.12.2019, at about 03.30 p.m., when the victim child was playing, this petitioner has taken her to the bathroom, inserted his penis inside her mouth and committed aggravated penetrative sexual assault on her. Hence, the case.

3. The learned senior counsel appearing for the petitioner submits that the victim is aged about 3 1/2 years and she has not stated anything about the occurrence when she was questioned under Section 164 of Cr.P.C. During examination in chief, the victim girl (PW2) has stated about the offence only on the compulsion of her mother. The victim girl was also not permitted to be cross examined. He submits that the petitioner is in jail for the past five years and he has completed half of his sentence.

4. The learned Government Advocate appearing for the respondent submits that this petitioner who is aged about 31 years has compelled the victim aged about 3 1/2 years for oral sex. PW3, who is the sister of the victim has witnessed the occurrence and therefore, apart from PW2, the case of the prosecution was established through PW3. He opposed this application by stating that this is the fifth application for grant



of suspension of sentence and there is no change in circumstances.

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

6. The allegation against this petitioner is that he has taken a child aged 3 1/2 years to bathroom and compelled her to have oral sex. However, the victim child has not supported the case of the prosecution when she was questioned under Section 164 of Cr.P.C.. Even during examination, the victim has answered only to the question of her mother. According to PW3, the petitioner has only attempted to commit the offence. Admittedly, this petitioner is in jail for the past five years. Typed set of papers has been made ready. Though earlier such applications were dismissed, the appeal could not be taken up for final hearing for want of time.

7. 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



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petitioner. However, considering the nature of offence, this Court is inclined to order stringent conditions as mentioned below.

8. 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.2,00,000/- (Rupees Two Lakhs only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Mahila Court, Pudukkottai.
- ii. The petitioner shall stay at Tiruppur and report before the Inspector of Police, Tiruppur Central Police Station, daily at 10.30 a.m., till the disposal of the appeal.
- iii. The petitioner and the sureties shall file an affidavit of undertaking before the respondent police that the petitioner will not involve in any offence in future and will not visit the occurrence village, pending appeal.



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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.

06.04.2026

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Note: Issue order copy on 20.04.2026

To

1.The learned Sessions Judge,
Mahila Court, Pudukkottai

2.The Inspector of Police,
All Women Police Station,
Alangudi, Pudukkottai District.

3.The Inspector of Police,
Tiruppur Central Police Station,
Tiruppur.

4.The Superintendent,
Central Prison,
Trichy.

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



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B.PUGALENDHI, J.,

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