



Crl.M.P.(MD)No.15135 of 2025

in Crl.A.(MD)No.1128 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2026

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THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.15135 of 2025

in Crl.A.(MD)No.1128 of 2025

Subramani @ Balasubramani

... Petitioner

versus

State of Tamil Nadu represented by
The Inspector of Police,
All Women Police Station,
Kovilpatti,
Thoothukudi District.

... Respondent

Petition filed under Section 430(1) of BNSS 2023, to suspend the sentence imposed against the petitioner in Spl.S.C.No.157 of 2019 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi, dated 22.04.2024 and release the petitioner on bail till the disposal of the main criminal appeal.

For Petitioner : Dr.R.Alagumani



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

ORDER

The petitioner is the sole accused in Spl.S.C.No.157 of 2019 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi. He was tried for the offence under Section 9(m) r/w. 10 of POCSO Act that he has abused the victim girl aged about 10 years. After the trial, the trial Court, by its Judgment dated 22.04.2024, found the petitioner guilty for the offence under Section 9(m) r/w. 10 of POCSO Act, convicted and sentenced him to undergo seven years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo six months simple imprisonment. Challenging the Judgment of conviction and sentence, the petitioner has filed an appeal before this Court in Crl.A.(MD)No.1128 of 2025 and the same was admitted by this Court on 24.10.2025. Along with the appeal, the petitioner has this petition seeking to suspend the sentence imposed by the trial Court.



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2. The learned counsel appearing for the petitioner submits that there was an enmity between the petitioner and the victim's family and the same was admitted by P.W.4 during her cross examination. He further submits that as per the evidence of P.W.1, she informed the alleged incident to one Malathi, but the said Malathi was not examined as prosecution witness. He further submits that in Ex.P2, P.W.9-Doctor recorded redness in the hymen of P.W.1. According to him, mere redness or congestion in the hymen of the victim cannot be relied as corroborative medical evidence to the prosecution case. He further submits that according to the victim child, P.W.10 and P.W.11 were present along with her in the place of occurrence, however, they turned hostile. Therefore, the petitioner is having certain arguable points in this case. Since the petitioner is in jail for nearly 2 ½ years, he seeks to suspend the sentence imposed by the trial Court.

3. The learned Government Advocate (Crl. Side) opposed this petition that the petitioner, a poojari of the temple, has abused the victim child aged about 10 years. According to him, the victim child has clearly deposed about the occurrence and that has also been corroborated by the doctor, who was examined as P.W.9 that she has noticed redness in the hymen of the victim.



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4. The case of the prosecution is that the victim child (P.W.1) was abused by the petitioner/accused when she was rearing the goats along with P.W.10 and P.W.11. Though P.W.10 partially supported the case of the prosecution that she was present in the place of occurrence, she has not stated about the occurrence and P.W.11 turned hostile. Further, the mother of the victim, who was examined as P.W.2, admitted that there was a dispute between her family members and the petitioner.

5. The petitioner has raised certain arguable points in this case. However, the appeal could not be taken up for final hearing for want time.

6. Considering the period of incarceration and also considering the fact that the appeal could not be taken up for final hearing for want of time, this Court is inclined to suspend the sentence with 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:



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(i) The petitioner shall execute a bond for Rs.25,000/- (Rupees twenty five thousand only) with two sureties each for a like sum to the satisfaction of the Special Court for Exclusive Trial of Cases under POSCO Act, Thoothukudi.

(ii) the persons who are giving sureties should be respectable persons in their locality, either Government Servants or elected people representatives or the persons who are having permanent business establishments and the sureties shall file an affidavit before the respondent Police, by ensuring that the petitioner will not visit the occurrence village and he will be available till the disposal of the appeal proceedings.

(iii) The petitioner shall stay at Chennai and appear before the Inspector of Police, C-1, Flower Bazaar Police Station, Chennai, daily at 10.30 a.m. until further orders and also file an affidavit before the respondent Police that he will not visit the occurrence village and he will be available during the appeal proceedings.

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1. The Special Court for Exclusive Trial of
Cases under POSCO Act,
Thoothukudi.
2. The Superintendent,
Central Prison, Palayamkottai.
3. The Inspector of Police,
All Women Police Station,
Kovilpatti,
Thoothukudi District.
4. The Inspector of Police,
C-1, Flower Bazaar Police Station,
Chennai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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