



Crl.MP(MD) No.15399 of 2023 in
Crl.A(MD) No.975 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :30.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.MP(MD) No.15399 of 2023

in

Crl.A(MD) No.975 of 2023

Prabhu

... Petitioner

Vs

The State of Tamilnadu,
Rep. by the Inspector of Police,
Thirupathur AWPS,
Sivagangai District.
Crime No.15 of 2021

... Respondent

Prayer :- This Criminal Miscellaneous Petition is filed under Section 430(1) of BNSS, 2023 to suspend the sentence imposed on the petitioner in Spl.SC No.11 of 2022, dated 31.08.2023 by the learned Sessions Judge, Special Court for Exclusive trial under POCSO Act cases, Sivagangai pending disposal of the appeal and enlarge him on bail.

For Petitioner : Dr.R.Alagumani

For Respondent : Mr.S.Prakash

Government Advocate (Crl.side)



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ORDER

The petitioner /A2 in Spl.SC No.11 of 2022, on the file of the Special Court for Exclusive trial under POCSO Act cases, Sivagangai was tried along with the another accused for the offence under Section 5(1) r/w 6 of POCSO Act. The trial Court has convicted this petitioner as under:-

Sl.No	Sections	Punishment	Fine amount	Default
1.	5(1) r/w 6 of POCSO Act	20 years Rigorous imprisonment	Rs.5,000/-	6 months simple imprisonment

As against the conviction and sentence imposed by the trial Court in Spl.SC No.11 of 2022, dated 31.08.2023, the petitioner has filed a Criminal Appeal in Crl.A(MD) No.975 of 2023. Along with the appeal, the petitioner has also moved this application to suspend the sentence imposed on him by the trial Court.

2.The case of the prosecution is that the petitioner along with another accused have sexually abused the victim girl aged about 12



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years in several occasions, by offering Biriyani and beer to her.

3.The learned counsel appearing for the petitioner has raised the following grounds for grant of suspension of sentence:-

- i. PW 1/the victim girl has deposed that she went to the School on the alleged date of occurrence, however, she has admitted that the occurrence took place at 4.00 p.m, and at that time, she was at School.
- ii. PW 5 and PW 9 are the observation Mahazar witnesses and their evidence is contradictory to the prosecution case.
- iii. The evidence of the doctor/PW 13 has not been properly appreciated by the trial Court.
- iv. PW 1/the victim has accepted that the alleged occurrence place is a public place, near the bus stand and the place was surrounded with crowd. Therefore, the alleged occurrence could not have taken place, however, the trial Court has not considered the same.



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v. The petitioner is in jail for the past four years and four months.

4.The learned Government Advocate (Crl. Side) appearing for the respondent submits that the victim girl is aged about 12 years at the time of occurrence. She is having two sisters and one brother. Her parents were living separately due to some misunderstanding. Therefore, two children are with the mother and two children are with the father. The victim girl was with her father at the time of occurrence. The victim girl used to rear the goats during school holidays. A1 in this case influenced her by offering chocolates, liquor and biriyani, had physical relationship with her. Knowing that, A2 had also abused the victim girl in the same manner in several occasions. When she suffered with stomach pain, she has reported it to her mother. She, in turn consulted with her husband and lodged a complaint as against this petitioner and another accused.



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4.1.The learned Government Advocate (Crl.side), by referring to the evidence of doctor /PW 2 submits that hymen was ruptured and there are evidence for physical relationship. That apart, the dress material of the victim girl at the time of occurrence was also recovered and it was also subjected for forensic examination, which revealed the presence of semen in the victim girl's dress material. Therefore, the prosecution has established the case before the trial Court and the trial Court has also rightly convicted the petitioner and another accused. Hence, he prays for dismissal of this petition.

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

6.A1 has filed a separate appeal in Crl.A(MD) No.1080 of 2023. He has also filed application to suspend the sentence imposed on him in Crl.MP(MD) No.17263 of 2023 and this Court, by its order, dated 21.08.2025 has dismissed the same. Considering the manner, in



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which, the victim girl has been subjected to sexual assault and with the available materials, this Court is not inclined to entertain this petition.

7. Accordingly, this Criminal Original Petition is dismissed. Since the typed set of papers is made ready, the Registry is directed to list the Criminal Appeal under the caption for "accused in jail cases."

30.03.2026

Index : Yes/No
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To

- 1.The Inspector of Police,
Thirupathur AWPS,
Sivagangai District.
- 2.The Superintendent,
Central Prison,
Madurai.



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B.PUGALENDHI, J.,

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Order made in
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