



CRL MP(MD). No.12279 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 19/01/2026

CORAM

THE HONOURABLE MRS. JUSTICE N.MALA

CRL MP(MD). No.12279 of 2025

in

CRL A(MD)No.963 of 2025

Shanmugaiah

... Petitioner

Vs

The State of Tamilnadu,
Rep. by the Inspector of Police,
All Women Police Station,
Kovilpatti,
Thoothukudi District.
Crime No. 10/2019.

... Respondent

PRAYER :- To Suspend the sentence imposed upon the petitioner by the Special court of Exclusive Trial of cases under POCSO Act, Thoothukudi in Spl.S.C.No. 55/2020 dt. 29.07.2025 pending disposal of the criminal appeal.

For Petitioner : D.Yogeshwar

For Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor



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ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed by the Special Court of Exclusive Trial of cases under POCSO Act, Thoothukudi in Spl.S.C.No.55 of 2020 dated 29.07.2025, and enlarge the petitioner on bail pending the disposal of the appeal.

2.On the complaint lodged by P.W.1, victim girl, a case was registered against the petitioner in Crime No.10 of 2019 for the offences under Section 452, 376, 506 (ii) of the IPC and 5(l), 5(j)(ii) read with Section 6 of the POCSO Act.

3.The case of the prosecution is that the victim girl aged about 16 years, was residing with her grandmother, since her mother passed away 12 years back. On 15.03.2019, at about 02.00 p.m., when the victim was alone at home, the petitioner barged into her house, told her that he was willing to marry her and indulged in sexual intercourse with her. When the victim raised an alarm, the petitioner closed her mouth with his hands and threatened to kill her, if she revealed the incident to anyone. The victim further stated that the petitioner had sexual intercourse with her on



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several occasions. While so, the victim's sister-in-law, one Kuruvammal suspected that the victim may be pregnant and enquired her about the same. The victim, thereafter revealed the aforesaid facts to her. On completion of investigation, charge sheet was filed under the aforesaid provisions. The Special Court for Exclusive Trial of cases under POCSO Act, Thoothukudi, took the case on file in Spl.S.C.No.55 of 2020.

4.Before the trial court, on the side of the prosecution, 20 witnesses were examined as P.W.1 to P.W.20 and 16 documents were marked as Ex.P.1 to Ex.P.16. No material object was marked. On the side of the defence, neither any witness was examined nor document was marked.

5.The Trial Court on consideration of the evidence on record, by judgment dated 29.07.2025, imposed the punishment of 20 years rigorous imprisonment with fine of Rs.10,000/-, in default to undergo simple imprisonment of one year for the offence under Section 5(l) read with Section 6 of the POCSO Act and 2 years rigorous imprisonment with fine of Rs.2,000/-, in default to undergo simple imprisonment for a period of one month, for the offence under Section 450 of IPC.



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6.Challenging the above said conviction and sentence, the appellant has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

7.The learned counsel appearing for the petitioner submitted that there are several inconsistencies, infirmities and contradictions in the evidence of P.W.1 and P.W.3. The learned counsel further submitted that though the petitioner was sentenced to 20 years of rigorous imprisonment for repeated offence under Section 5(1) read with Section 6 of POCSO Act, there was absolutely no supporting evidence. The learned counsel further submitted that in the absence of any evidence for repeated sexual assault under Section 5(1) read with Section 6 of POCSO Act, the Trial Court ought not to have imposed the punishment of 20 years rigorous imprisonment. The learned counsel further submitted that the victim in her deposition categorically admitted that she was tutored by her sister-in-law to lodge the complaint. The learned counsel further submitted that even the medical evidence, the DNA report, clearly proved that the accused was not the biological father of the child born to the victim girl.



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The learned counsel for the petitioner submitted that it is therefore clear that the case against the petitioner was not proved by the prosecution.

8.The learned Additional Public Prosecutor submitted that negative DNA report cannot be the sole criteria for acquitting the accused. The learned Additional Public Prosecutor further submitted that apart from the medical report, there were several evidences which clearly proved that the petitioner was guilty of the offence alleged against him. The learned Additional Public Prosecutor further submitted that the Trial Court's findings were cogent and based on proper appreciation of the evidence. Therefore, the learned Additional Public Prosecutor submitted that there are no merits in the application.

9.Heard both sides and perused the materials placed on record.

10.A *prima facie* consideration of the materials on record indicates that the DNA report does not lend support to the prosecution case. The statement of the victim also discloses the existence of prior disputes between her family and the accused, which constitute a relevant



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circumstances for the limited purpose of the present application. It is further noticed that the victim's version does not, at this stage, *prima facie* disclose allegations of repeated sexual assault so as to attract the rigours of Section 5(l) of the POCSO Act. Without expressing any opinion on the merits of the appeal or on the appreciation of the evidence, and keeping in view the limited scope of consideration under Section 389 Cr.P.C., this Court is satisfied that a case for suspension of sentence is made out, particularly as the criminal appeal is not likely to be taken up for final hearing in the near future.

11. Accordingly, the Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal with the following directions:

(i) the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, within a period of 10 days from the date of receipt of a copy of this order, each for a like sum to the satisfaction of the Special Court for Exclusive Trial of cases under POCSO Act, Thoothukudi.



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(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iii) The petitioner shall appear before the Inspector of Police, All Women Police Station, Kovilpatti, Thoothukudi District, everyday at 10.30 a.m., until further orders.

19.01.2026

SN

TO

1.The Inspector of Police,
All Women Police Station,
Kovilpatti,
Thoothukudi District.

2.The Special Court for Exclusive Trial
of cases under POCSO Act, Thoothukudi.

3.The Central Prison,
Palayamkottai.

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



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N.MALA,J

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