



CRL MP(MD). No.14175/2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 17.02.2026

CORAM

THE HONOURABLE MRS. JUSTICE N.MALA

CRL MP(MD). No.14175/2025
in
CRL A(MD)No.1125/2024

Saravanan

... Petitioner

Vs

The State of Tamilnadu Rep by
The Inspector of Police,
Theni Police Station
Theni District.
[Cr.No.327/2023].

... Respondent

PRAYER :- Petition filed under Section 415[2] of BNSS, to suspend the sentence imposed against the petitioner in Sessions Judge, Special Court for Exclusive Trial of Cases Under POCSO Act, Theni, in Spl.SC.No. 161/2023 dated 08.11.2024 and enlarge the petitioner on bail pending disposal of the above criminal appeal.

For Petitioner : Mr.C.Susikumar

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



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ORDER

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner in Spl.SC.No.161/2023, dated 08.11.2024, by the learned Sessions Judge, Special Court for Exclusive Trial of POCSO Act Cases, Theni, pending disposal of the criminal appeal.

2.This is the second application for suspension of sentence.

3.The learned counsel for the petitioner was heard at length. The learned counsel for the petitioner submitted that from a reading of the statements of PW1, mother of the victim and PW2 [victim] in the cross examination, it is clear that PW1 had left for her parental home on 30.06.2023 with the victim [PW2] and her other children and therefore, there was no possibility of the petitioner committing the offence. The learned counsel for the petitioner also referred to the evidence of DW2, a neighbour, to establish that the petitioner's wife and children were residing in PW1's parental home at the time of occurrence. The learned counsel therefore submitted that the petition for suspension of sentence be allowed.



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4.This Court heard the learned counsel for the petitioner at length and after going through the judgment of the Trial Court, pointed out that the Trial Court had categorically found that the statement of the victim girl and her sister, could not be disbelieved and therefore, just because the father and mother had settled their marital disputes, the offence committed against the child, could not be effaced.

5.At this juncture, the learned counsel for the petitioner sought permission of this Court to withdraw the petition.

6.This Court is not inclined to allow the withdrawal of the petition since the Court has spent considerable time in hearing the matter. This Court finds that there is no apparent or palpable error in the judgment of the Trial Court and therefore, all other points raised by the learned counsel for the petitioner, are matters to be decided at the time of the final hearing of the appeal.

7.The Hon'ble Supreme Court in the case of ***Om Prakash Sahni Vs. Jaishankar Chaudhary and Another [2023 [6] SCC 123]***, held in paragraph No.33 as follows:-



"33. Bearing in mind the aforesaid principles of law, the endeavour on the part of the court, therefore, should be to see as to whether the case presented by the prosecution and accepted by the trial court can be said to be a case in which, ultimately the convict stands for fair chances of acquittal. If the answer to the abovesaid question is to be in the affirmative, as a necessary corollary, we shall have to say that, if ultimately the convict appears to be entitled to have an acquittal at the hands of this Court, he should not be kept behind the bars for a pretty long time till the conclusion of the appeal, which usually takes very long for decision and disposal. However, while undertaking the exercise to ascertain whether the convict has fair chances of acquittal, what is to be looked into is something palpable. To put it in other words, something which is very apparent or gross on the face of the record, on the basis of which, the court can arrive at a prima facie satisfaction that the conviction may not be sustainable. The appellate court should not reappreciate the evidence at the stage of Section 389 CrPC and try to pick up a few lacunae or loopholes here or there in the case of the prosecution. Such would not be a correct approach."

8.The learned counsel for the petitioner was not able to demonstrate before this Court any palpable error in the judgment of the Trial Court. Therefore, this Court finds no compelling reason to grant the relief of suspension of sentence to the petitioner.



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9.Hence, this Criminal Miscellaneous Petition is **dismissed**.

10.Post the main Criminal Appeal in the usual course.

11.The observations made by this Court, are limited to the consideration of this application and shall not affect either party at the time of final hearing.

17.02.2026

AP

Internet: Yes

TO

- 1.The Sessions Judge,
Special Court for Exclusive Trial of
Cases Under POCSO Act, Theni
- 2.The Inspector of Police
Theni Police Station
Theni.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.MALA,J

sn/AP

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