



Crl.M.P.(MD)No.15437 of 2025

in Crl.A.(MD)No.1144 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2026

CORAM

THE HONOURABLE MR JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.15437 of 2025

in Crl.A.(MD)No.1144 of 2025

K.Dharmar

... Petitioner

versus

The State of Tamilnadu represented by
The Inspector of Police,
Kamuthi All Women Police Station,
Ramanathapuram District.

... Respondent

Petition filed under Section 430(1) of BNSS 2023, to suspend the sentence imposed against the petitioner in Spl.S.C.No.70 of 2022 dated 13.05.2025 passed by the Mahalir Neethimandram (Fast Track Mahila Court), Ramanathapuram and enlarge the petitioner on bail pending disposal of the criminal appeal.

For Petitioner : Mr.G.Karuppasamypandian

For Respondent : Mr.S.Prakash,
Government Advocate (Crl. Side)



WEB COPY



Crl.M.P.(MD)No.15437 of 2025

in Crl.A.(MD)No.1144 of 2025

ORDER

The petitioner is the sole accused in Spl.S.C.No.70 of 2022 on the file of the Mahalir Neethimandram (Fast Track Mahila Court), Ramanathapuram. He was tried for the offence under Sections 363, 294(b) and 506(i) IPC and Section 5(k), 5(1), 5(m) r/w. 6 of POCSO Act that he has sexually abused the victim child aged about 10 years, who is mentally unsound. After the trial, the trial Court, by its Judgment dated 13.05.2025, found the petitioner guilty for the offence under Sections 5(l), 5(m) r/w. 6 of POCSO Act, convicted and sentenced him as under:

Sl.No	Sections	Punishment	Fine amount	Default
1.	5(l) r/w. 6 of POCSO Act	20 years rigorous imprisonment	Rs.3,000/-	One year simple imprisonment
2.	5(m) r/w. 6 of POCSO Act	20 years rigorous imprisonment	Rs.3,000/-	One year simple imprisonment

Challenging the Judgment of conviction and sentence, the petitioner has filed an appeal before this Court in Crl.A.(MD)No.1144 of 2025 and the same was admitted by this Court on 27.10.2025. Along with the appeal, the petitioner has filed this petition seeking to suspend the sentence imposed by the trial Court.



Crl.M.P.(MD)No.15437 of 2025

in Crl.A.(MD)No.1144 of 2025

WEB COPY

2. The learned counsel appearing for the petitioner submits that the victim girl has deposed in her evidence that she was tutored by her mother. Therefore, the evidence of the victim girl becomes stale because of her own admission of tutoring. Except the statement of the victim girl, there is no clinching evidence. Further, P.W.6-Doctor in her evidence stated that no injuries were found on the private part of the victim girl and hymen was also intact and the victim was seen to be normal. He further submits that according to P.W.9-the investigating officer, she had gone to the scene of occurrence and examined the witnesses. Per contra, P.W.-4, the own sister of the victim girl categorically stated that in the evening on the date of occurrence, she phoned the child line care and the police as well and on the same, the child line officer and police came there and conducted enquiry. Therefore, the commencement of investigation prior to the lodging of complaint is fatal to the prosecution case. Moreover, no child line officer is examined as a witness in this case. Therefore, the petitioner is having certain arguable points in this case, however, the petitioner is in jail from the date of remand, i.e. from 26.04.2022, i.e. for nearly 3 years and 11 months.



Crl.M.P.(MD)No.15437 of 2025

in Crl.A.(MD)No.1144 of 2025

3. The learned Government Advocate (Crl. Side) opposed this petition that the victim child is a mentally retarded person. She has clearly narrated about the occurrence during her evidence and also during the statement recorded under Section 164 Cr.P.C.

4. Admittedly, the victim child is a mentally retarded person and in her evidence, she has clearly stated that she has been tutored by her mother. The occurrence said to have taken place on 25.04.2022, but the complaint was lodged on 26.04.2022. The victim was also examined by P.W.6-Doctor. But, the Doctor has not noticed any injury on the private part of the victim child. Further, the petitioner is in jail from 26.04.2022, i.e. for nearly four years.

5. The petitioner has raised certain arguable points in the appeal. 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.



Crl.M.P.(MD)No.15437 of 2025

in Crl.A.(MD)No.1144 of 2025

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:

(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 Mahalir Neethimandram (Fast Track Mahila Court), Ramanathapuram.

(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 never visit the place occurrence village and he will be available till the disposal of the appeal proceedings.

(iii) The petitioner shall stay at Thiruppur and appear before the Inspector of Police, Town Police Station (South), Thiruppur, daily at 10.30 a.m. until further orders and also file an affidavit before the respondent police that he will never visit the occurrence village and he will be available during the appeal proceedings.

26.03.2026

ogy



Crl.M.P.(MD)No.15437 of 2025

in Crl.A.(MD)No.1144 of 2025

To

1. The Mahalir Neethimandram
(Fast Track Mahila Court),
Ramanathapuram.
2. The Superintendent,
Central Prison, Madurai.
3. The Inspector of Police,
Kamuthi All Women Police Station,
Ramanathapuram District.
4. The Inspector of Police,
Town Police Station (South),
Thiruppur.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.M.P.(MD)No.15437 of 2025

in Crl.A.(MD)No.1144 of 2025

B.PUGALENDHI, J.

ogy

Crl.M.P.(MD)No.15437 of 2025

in Crl.A.(MD)No.1144 of 2025

26.03.2026