



Crl.MP(MD) No.19075 of 2025 in
Crl.A(MD) No.1306 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :09.04.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.MP(MD) No.19075 of 2025

in

Crl.A(MD) No.1306 of 2025

Karthik

... Petitioner

Vs

The State of Tamilnadu,
Rep. by the Inspector of Police,
All Women Police Station,
Tenkasi.

... 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.S.C.No.73 of 2021, dated 20.08.2024, on the file of the Special Court for trial of cases under POCSO Act, Tirunelveli District, and enlarge him on bail pending disposal of the criminal appeal.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.S.Prakash

Government Advocate (Crl.side)



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ORDER

The petitioner is the sole accused in Spl.S.C.No.73 of 2021, on the file of the Special Court for trial of cases under POCSO Act, Tirunelveli District. He was tried for the offence under Sections 363 & 376 of IPC r/w Section 5(m) & 6 of the POCSO Act, 2012 that he has abused the victim child aged about 10 years. The trial Court has found the petitioner guilty, convicted and sentenced as under:-

Sl.No	Sections	Punishment	Fine amount	Default
1.	5(m) r/w 6 of POCSO Act, 2012	20 years Rigorous imprisonment	Rs.10,000/-	One year rigorous imprisonment

As against the conviction and sentence imposed by the trial Court in Spl.S.C.No.73 of 2021, dated 20.08.2024, the petitioner has filed a Criminal Appeal in Crl.A(MD) No.1306 of 2025 and the same was admitted by this Court, by order, dated 03.12.2025. Along with the appeal, the petitioner has also moved this application to suspend the sentence imposed on him by the trial Court.



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

- i. The evidence of PW 1/mother of the victim and PW 2/victim girl did not support the case of the prosecution.
- ii. PW 3/eye witness has turned hostile, which is fatal to the case of the prosecution.
- iii. The evidence of PW 1 and PW 2 discloses the fact that while PW 2 was playing, she fell down and the petitioner has rescued her.
- iv. PWs 1, 3 & 5 were treated as hostile and as such the conviction based on their oral testimonies is not sustainable.
- v. The evidence of PW 16 clearly shows that there is a considerable delay in dispatching the FIR to the Court, which proves that the complaint was prepared after deliberation.
- vi. The medical evidence did not support the case of the prosecution



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vii.PW 6 and PW 10 are Mahazar witnesses and PW 7 and PW

11 are the witnesses for confession statement and they turned hostile.

viii.The petitioner is in jail for more than 1 ½ years.

3.The learned Government Advocate (Crl.side) appearing for the respondent submits that the prosecution witnesses have been examined after two years and this petitioner has influenced PW 1 and other witnesses. Therefore, they did not support the case of the prosecution. Even then, the trial Court has considered the material evidence and other witnesses carefully and rightly convicted the petitioner.

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



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5.This is a case of bad touch. According to the PW 1/the father of the victim child, the child was playing along with another child near his mother-in-law's house, which is half a kilometer away from his house. However, the child, who has accompanied the victim child has not been examined. The occurrence was said to have taken place in the house of the victim girl's friend's house. The petitioner was residing opposite to the house of the victim. There is no explanation from the prosecution as to the possibility of this petitioner going to that place, which is half a kilometer away from his house and attempted to disturb the victim child in the house of a third party/ PW 4. Admittedly, PW 4 was in the house at the time of occurrence. The prosecution case appears to be a strange one that this petitioner has attempted to abuse the victim child in the house of PW 4, that too, when PW 4 was available in the house at that relevant point of time. The petitioner is in jail for more than 1 ½ years.



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6.The petitioner has raised certain arguable points, which can be considered only during the final hearing of the criminal appeal. However the appeal could not be taken up immediately, for want of time. It is reported that the typed set of papers are not made ready. The petitioner is languishing in jail for more than 1 ½ years. Considering the period of incarceration and that the appeal could not be taken up immediately, this Court is inclined to suspend the sentence imposed on him.

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 a sum of Rs.50,000/- (Rupees Fifty Thousand) with two sureties each for a like sum to the satisfaction of the learned Judge, Special Court for trial of cases under POCSO Act, Tirunelveli.



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- ii. The persons, who are offering surety to the petitioner must file an affidavit of undertaking before the respondent police, ensuring that the petitioner would not visit the occurrence village pending the appeal, would not disturb the victim child and her family and also he would be available during the final hearing of the appeal. The petitioner shall also file an affidavit to that effect.
- iii. The petitioner shall stay at Tiruppur and report before the Inspector of Police, Tiruppur South Police Station, Tiruppur. daily at 10.30 a.m, until further orders.
- iv. In the event, if there is any change in address of the petitioner, the same shall be duly informed to the respondent police without fail.



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Index : Yes/No
Internet : Yes/No
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To

- 1.The Special Court for trial of cases under POCSO Act,
Tirunelveli District.
- 2.The Inspector of Police,
All Women Police Station,
Tenkasi.
- 3.The Inspector of Police,
Tiruppur South Police Station,
Tiruppur.
- 4.The Superintendent,
Central Prison,
Palayamkottai.

Copy to

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



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B.PUGALENDHI, J.,

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