



*Crl.MP(MD) No.17740 of 2025 in
Crl.A(MD) No.178 of 2023*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :08.04.2026

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.M.P.(MD)No.17740 of 2025
in Crl.A.(MD)No.178 of 2023

Rajesh

... Petitioner

Vs.

State through,
The Inspector of Police,
All Women Police Station,
Palayamkottai, Tirunelveli District.
Crime No.15 of 2013

... Respondent

Prayer: Petition filed under Section 430(1) of BNSS to suspend the sentence imposed against the petitioner in Spl.S.C.No.2 of 2019 on the file of the Sessions Judge, POCSO Special Court, Tirunelveli, dated 24.08.2022 and release the petitioner on bail till the disposal of the appeal.

For Petitioner : Mr.K.C.Maniyarasu

For Respondent : Mr.A.S.Abul Kalam Azad
Government Advocate (Crl. Side)



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ORDER

The petitioner, an accused in Spl.S.C.No.2 of 2019, on the file of the learned Sessions Judge, POCSO Special Court, Tirunelveli was found guilty by the trial Court and was convicted and sentenced as under:-

Sl.No	Sections	Punishment	Fine amount	Default
1	342 IPC	6 months RI	-	-
2	Section 3(a) r/w 4(2) of POCSO Act	20 years RI	Rs.5,000/-	1 year RI

As against the conviction and sentence imposed by the trial Court in Spl.S.C.No.2 of 2019, dated 24.08.2022, the petitioner has filed a Criminal Appeal in Crl.A(MD)No.178 of 2023 and the same was admitted by this Court on 08.03.2023. Along with the appeal, the petitioner has moved applications to suspend the sentence imposed on him by the trial Court. However, they were dismissed by this Court. Now, the present petition is filed.

2. The case of the prosecution is that on 03.08.2013, at about 12.30 hours, the petitioner wrongfully confined the victim child into his aunt's house till 20.00 hours, removed her dress and committed penetrative



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sexual assault on her. Hence, case was lodged on the same date at 10.00 p.m.

3. The learned counsel appearing for the petitioner submits that PW1 - the mother of the victim, PW3 - father of the victim and PW4 - maternal uncle of the victim were treated hostile. Statement under Section 164 of Cr.P.C. was not recorded from the victim child. The victim was examined only in the year 2021, when she was aged about 23 years. The occurrence was on 03.08.2013 and the victim child was examined by the Doctor on 05.08.2013. The Doctor in his evidence has stated that there are no symptoms for any intercourse recently and that there are no injuries on the victim. According to him, the petitioner was in jail for a period of 1 year during trial and thereafter, from the date of conviction i.e., 24.08.2022. Thus, the petitioner is in jail for more than four years.

4. The learned Government Advocate appearing for the respondent submits that the victim child was aged about 14 years on the date of occurrence and the same was established by the prosecution through the Headmaster of the School, where the victim child studied.



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Subsequently, the victim married another person. PW1, PW3 to PW5 turned hostile. However, according to him PW2 has narrated the incident in a cogent manner and PW7, who is the friend of the accused has supported the case of the prosecution. Therefore, the prosecution has established its case beyond reasonable doubt and the offence committed by this petitioner against a 14 year old girl is serious in nature. He further submits that the earlier applications filed by this petitioner for suspension of sentence were considered and dismissed by this Court.

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

6. The prosecution has relied on the School Certificate and projected the case that the age of the victim at the relevant point of time was 14 years. However PW2 - victim child, in her evidence has stated that she was not aware of her date of birth. PW1 - mother of the victim child has stated that the age of the victim at the relevant point of time was 15 years. According to PW3 - father of the victim child, the age of the victim was 17 years on the date of occurrence. The complaint was lodged



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immediately after the occurrence. The Doctor who examined the victim has stated that there were no symptoms for any intercourse recently.

7. The petitioner has raised certain arguable points, which can be considered only during the final hearing of the appeal. Though earlier applications were dismissed, the appeal could not be taken up for final hearing. The petitioner is in jail for four years. Considering the points raised by the petitioner, his period of incarceration and for the reasons that the appeal could not be taken up immediately, this Court is inclined to suspend the sentence imposed on the petitioner.

8. 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.1,00,000/- (Rupees One Lakh only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, POCSO Special Court, Tirunelveli.



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- ii. The petitioner shall stay at Tiruppur and report before the Inspector of Police, Tiruppur Central Police Station, daily at 10.30 a.m., till the disposal of the appeal.
- iii. The petitioner shall file an affidavit of undertaking before the respondent police that he will not involve in any offence in future.
- iv. The petitioner shall neither visit the occurrence village nor disturb the victim child, pending appeal.
- v. In the event, if the petitioner has violated any of the above conditions, it is open to the respondent police to file an application to cancel the bail granted to him.

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To

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- 1.The learned Sessions Judge,
POCSO Special Court, Tirunelveli
- 2.The Inspector of Police,
All Women Police Station,
Palayamkottai, Tirunelveli District.
- 3.The Inspector of Police,
Tiruppur Central Police Station,
Tiruppur.
- 4.The Superintendent,
Central Prison,
Palayamkottai.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.,

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