



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **20.01.2026**

CORAM

THE HONOURABLE MRS JUSTICE N. MALA

CRL MP(MD) No. 19066 of 2025

in Crl.A(MD)No.1302 of 2025

Kannan

Petitioner/Appellant

Vs

The State rep.by
The Inspector of Police
All Women Police station
Nagercoil,
Kanyakumari District.
(In Crime No. 50 of 2019)

Respondent/Respondent

For Petitioner : Mr.L.George Paul Anto

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

Prayer: This petition is filed under Section 430 and 483 of BNSS to Suspend the Sentence of imprisonment imposed by the learned Fast Track Mahila Court/Additional Special Court for Exclusive Trial of Cases under POCSO Act, 2012, Kanyakumari District at Nagercoil in Spl.S.C.No.94 of 2019 dated 26.06.2025 till the disposal disposal of the appeal.



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ORDER

This petition is filed for suspension of sentence imposed by the Fast Track Mahila Court, Additional Special Court for exclusive trial of cases for POCSO Act, Kanyakumari District at Nagercoil in Spl.S.C.No.19 of 2019 dated 26.06.2025 till the disposal of the appeal and enlarge the petitioner on bail till the disposal of the appeal.

2. The brief facts of the prosecution case are that on 06.10.2019, the victim girl, a student of 10th Standard, was alone at home since her parents had gone to work. At that time, the petitioner, being the paternal uncle of the victim girl, trespassed into her house and taking advantage of her solitude and vulnerable state with sexual intent touched the victim girl's cheek and attempted to touch her breast. The victim girl thwarted the attempt and she ran away from the floor of the house into the upstairs balcony and locked herself. The petitioner returned after finding the door was locked. Therefore, the case was registered against the petitioner for the offences under Section 451 IPC and Section 8 r/w 7 of POCSO Act.



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3. Before the trial court, on the side of the prosecution, 11 witnesses were examined as P.W.1 to P.W.11 and 17 documents were marked as Ex.P.1 to Ex.P.17. The petitioner neither adduced oral nor documentary evidence.

4. After full-fledged trial, the trial court, on the basis of the evidence on record, found the petitioner guilty for the offences mentioned above and sentenced the petitioner to undergo one year rigorous imprisonment with fine of Rs.5000/-, in default, to undergo six months simple imprisonment for the offence under Section 451 IPC and sentenced the petitioner to undergo four years rigorous imprisonment with fine of Rs.5000/- in default to undergo six months simple imprisonment for the offence under Section 8 r/w 7 of POCSO Act. The sentences were ordered to run concurrently.

5. Aggrieved by the judgment of the trial court, the petitioner filed the above appeal along with the application for suspension of sentence.



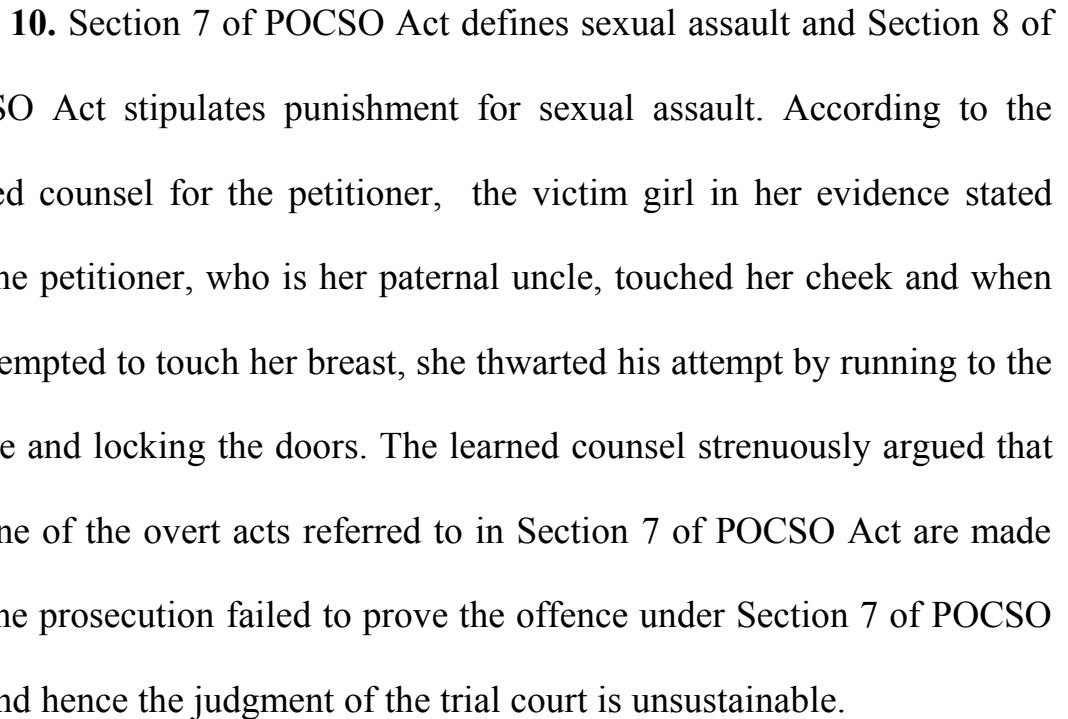
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6. The learned counsel for the petitioner submitted that even as per the statement of the victim, the offence under Section 7 of POCSO Act is not made out and therefore, the trial court erred in imposing punishment for the offence under Section 8 r/w 7 of POCSO Act.

7. The learned Additional Public Prosecutor submits that the trial court, on the basis of the evidence on record, found the petitioner guilty and therefore, there is no merit in the appeal. The learned Additional Public Prosecutor also submits that the application for suspension deserves to be rejected.

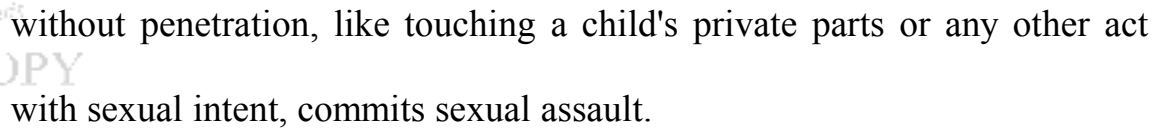
8. The learned Additional Public Prosecutor relied on the judgment of the Bombay High Court at Nagpur Bench in **Sheikh Rafiqe Sk. Gulab vs. The State of Maharashtra in Criminal Appeal No.772 of 2019 dated 04.12.2025** in support of his submission that even mere touch with sexual intent would constitute sexual assault within the meaning of Section 7 of POCSO Act.

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



"As any act with sexual intent involving physical contact without penetration, such as inappropriate touching, making a child expose themselves, or showing pornographic content, with penalties including imprisonment and fines, emphasizing that the crucial element is the perpetrator's sexual intent, not skin-to-skin contact".

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13. In the said case, it is held as follows:

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14. In the light of the above discussions, this Court is not satisfied that a *prima facie* case for grant of suspension of sentence is made out. This Court is of the further view that the other argument relating to family hostility is also a point to be decided only at the time of final hearing of the appeal. This Court is therefore not inclined to grant suspension of sentence.

15. In fine, this petition is dismissed.

20.01.2026

CM

To :

1.The Inspector of Police
All Women Police station
Nagercoil,
Kanyakumari District.
(In Crime No. 50 of 2019)

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

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N.MALA, J.

CM

ORDER in
CRL MP(MD) NO. 19066 of 2025
in Crl.A(MD)No.1302 of 2025

Dated : 20.01.2026