



CRL MP(MD). No.196/2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 27.02.2026

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THE HONOURABLE MRS. JUSTICE N.MALA

**CRL MP(MD). No.196/2026
in
CRL A(MD)No.24/2026**

Sudhakaran

... Petitioner
/ Sole Accused

Vs

State of Tamil Nadu rep.by
The Inspector of Police
Varusanadu Police Station
Theni District.
Cr.No.95/2022

... Respondent

PRAYER :- Petition filed u/s.430[1] of BNSS to suspend the sentence imposed against the petitioner in the judgment in Spl.SC.No.138/2023 dated 15.10.2025, on the file of the learned Special Court for Exclusive Trial of Cases under POCSO Act, Theni, and enlarge the petitioner on bail pending disposal of the main criminal appeal.

For Petitioner : Mr.Gururaj.M.

For Respondent : Mr.B.Nambi Selvan, APP



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ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner, to suspend the sentence imposed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Theni, in Spl.SC.No.138/2023, dated 15.10.2025, and enlarge the petitioner on bail pending the disposal of the appeal.

2.The case of the prosecution briefly stated, is that on 29.06.2022, at about 9.00 p.m., when the victim was alone in her house, the accused along with one Vishal, a juvenile, criminally trespassed into the house of the victim and sexually assaulted her. When the victim resisted, they pushed her against a table, resulting in grievous injuries to her. Therefore, PW1, the mother of the victim, lodged a complaint and a case was registered in Cr.No.95/2022, against the accused, for the offences under Section 448, 324, 376[3] of IPC and under Sections 5[g], 5[k], 5[i], 6, 8, 16 and 17 of POCSO Act. On completion of investigation and on filing of charge sheet, the case was taken up on file by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Theni, in Spl.SC.No.138/2022.



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3. Before the Trial Court, on the side of the prosecution, 15 witnesses were examined as P.W.1 to P.W.17 and 17 documents were marked as Ex.P.1 to Ex.P.17. On the side of the accused, no oral or documentary was marked.

4. The Trial Court, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, passed the impugned judgment dated 15.10.2025, convicting and sentencing the petitioner as follows:

S.No.	Conviction u/s	Sentence
1	10 of POCSO Act	To undergo 5 years RI, with a fine of Rs. 25,000/-, in default to undergo 1 year RI
2	448 of IPC	To undergo 1 year RI, with a fine of Rs. 1,000/-, in default to undergo 1 month SI
3	325 of IPC	To undergo 4 years RI, with a fine of Rs. 10,000/-, in default to undergo 6 months RI

5. Challenging the above said conviction and sentence, the appellant has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.



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6.The respondent filed a counter affidavit narrating the facts leading to the conviction and sentencing of the petitioner. The respondent submitted that the Trial Court had properly appreciated the entire evidence on record and categorically found that the prosecution had proved its case beyond reasonable doubt. The respondent further stated that there was no apparent error in the judgment of the Trial Court necessitating interference by this Court and no case was made out by the petitioner for grant of suspension of sentence.

7.The learned counsel appearing for the petitioner submitted that PW14, the doctor, who examined the victim and gave the medical certificate under Ex.P8, categorically stated that the victim did not name the accused and therefore, in the Accident Register, the names of the accused were not recorded. The learned counsel submitted that when the FIR was registered on the same day at 8.00 a.m., and when the accused were specifically named in the FIR, the non mentioning of the names of the accused in the AR copy [Ex.P8], raises a serious doubt in the prosecution's case. The learned counsel further submitted that the Trial Court failed to note that the victim herself admitted that she was in love with Vishal and that, at the time occurrence, her maternal uncle was also



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in the house. The learned counsel submitted that the Trial Court did not consider the role of the maternal uncle in the crime. The learned counsel further submitted that PW1/mother of the victim in her cross examination, admitted that her brother who was unmarried, was staying along with her and that, after the occurrence, he did not visit her house. The learned counsel submitted that the Trial Court, did not consider the said factors and therefore, sought for suspension of sentence.

8.The learned Additional Public Prosecutor appearing for the State reiterated the submissions made in the counter affidavit and submitted that the Trial Court had properly appreciated the evidence on record and there was no perversity in the findings of the Trial Court warranting interference by this Court. The learned Additional Public Prosecutor, further submitted that the petition lacks merit and the points raised by the petitioner, are matters best left to be considered at the time of final disposal of the criminal appeal and hence, prayed for the dismissal of the petition.

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



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10.As rightly contended by the learned counsel for the petitioner, the Trial Court failed to note that the accused were not named in the AR copy, even though the medical examination was conducted on the same day, as the complaint, i.e., 02.07.2022. When PW1 had mentioned specifically the names of the accused in the complaint, there was no explanation as to why the names were not mentioned before the doctor/PW14. The Trial Court has not considered the said factor and therefore, this Court is of the view that arguable point is made out in the appeal. Further, the appeal is not likely to be heard in the proximate future.

11.Under the aforesaid facts and circumstances of this case, this Court is inclined to grant suspension of sentence to the petitioner. However, the observations made herein will be restricted to this application and shall not affect either party in the final disposal of the case.

12.Accordingly, the Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal with the following directions:

(i)the petitioner is directed to pay the fine amount of Rs.10,000/- within a period of two weeks from today, if not already paid ;



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(ii) Upon payment of the fine amount, the petitioner shall be enlarged on bail on condition that she shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum, within a period of ten days from the date of receipt of a copy of this order, to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Theni ;

(iii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iv) The petitioner shall appear before the Trial Court *on every Monday* at 10.30 a.m., pending disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C (355 of BNSS) and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

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To

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



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N.MALA, J.

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