



CrI.MP.(MD).No.20457/2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 20.01.2026

CORAM

THE HONOURABLE MRS. JUSTICE N.MALA

CrI.MP.(MD).No.20457/2025

in

CRL A(MD)No.1375/2025

Parvathy Muthu

... Petitioner

Vs

State of Tamilnadu rep.by
The Inspector of Police,
All Women Police Station,
Tiruchendur.

... Respondent

[Crime No.5/2022]

PRAYER:- Petition filed under Section 389 read with 430[1] of BNSS to suspend the sentence imposed upon the petitioner by the learned Special Court for Exclusive Trial of Cases under the POCSO Act, Thoothukudi, in Spl.SC.No.85/2022 dated 09.12.2025 pending disposal of the appeal.

For Petitioner : Mr.S.K.Mani

For Respondent : Mr.B.Nambiselvan, APP

ORDER

These Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Sessions Judge



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[FAC], Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi, in Spl.SC.No.85/2022 dated 09.12.2025, and to enlarge the petitioner on bail pending disposal of the appeal.

2.The case of the prosecution in brief, is that on 19.02.2022, at about 9.00 p.m., the petitioner/accused asked the victim girl to call her paternal uncle and when she was proceeding in the lane to call her uncle, the petitioner hugged her and kissed her in the lips and committed sexual assault. Therefore, a case was registered in Crime No.5/2022 for the offence under Section 7 read with Section 8 of the POCSO Act.

3.Before the Trial Court, on the side of the prosecution, 17 witnesses were examined as P.W.1 to P.W.17 and 15 documents were marked as Ex.P.1 to Ex.P.15 and one material object was produced as M.O.1. On the side of the accused, the petitioner examined himself as DW1 and marked one document as Ex.D1.

4.The learned Sessions Judge [FAC], Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, convicted and sentenced the petitioner to undergo rigorous imprisonment for 3 years along with a fine of Rs.2,500/-, in



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default, to undergo simple imprisonment for three months for the offence punishable under Section 8 of the POCSO Act.

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

6.The respondent police filed a counter affidavit, wherein the facts leading to the appeal were narrated. The respondent stated that the Trial Court, on proper appreciation of the evidence on record, rightly convicted the accused. The respondent further stated that the evidence of the prosecution witness corroborated the prosecution case and therefore, the Trial Court was justified in imposing the sentence aforesaid. The respondent also stated that no plausible grounds were made out for suspending the sentence.

7.The learned counsel for the petitioner submitted that the Trial Court, failed to appreciate that the victim girl's family was closely related to the petitioner's girl friend one Muthudivya and that since the parents of Muthudivya did not want her to marry the petitioner, they foisted a false case against the petitioner. The learned counsel further submitted



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that the Trial Court failed to appreciate the evidence on record in proper perspective resulting in failure of justice and therefore, prayed for suspension of sentence pending appeal.

8.The learned Additional Public Prosecutor, appearing for the State submitted that the evidence of the prosecution witnesses corroborated the prosecution case and hence, he strongly opposed the grant of suspension of sentence. The learned Additional Public Prosecutor submitted that the Trial Court considered the evidence on record in entirety and in proper perspective and imposed the aforesaid sentence on the petitioner, that absolutely, no case was made out for grant of suspension of sentence and all the grounds raised, could be considered only at the time of final hearing of the appeal and hence prayed that the petition be dismissed.

9.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

10.On a *prima facie* consideration of the materials on record, this Court finds that the prosecution evidence raises certain arguable and debatable issues, which require consideration in the appeal and which may also strongly help the petitioner in his acquittal. The evidence of PW6 and PW7 does not completely negate the existence of relationship



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between the petitioner and Muthudivya, while PW3 has deposed that a function in the nature of an engagement ceremony was conducted only after the petitioner was remanded to judicial custody and that at the time of his marriage, the petitioner was on bail. The deposition of PW6, wherein he admits that the said relationship caused him mental agony, lends support to the defense contention that the prosecution may have been set in motion on account of the said relationship. Without expressing any opinion on the merits of the appeal, this Court is of the view that the aforesaid circumstances disclose arguable points warranting consideration.

11. Further, the criminal appeal is not likely to be taken up for final hearing in the near future and hence, this Court is inclined to suspend the sentence imposed on the petitioner.

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.2,500/- within a period of two weeks from today ;



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(ii) upon payment of the fine amount, the petitioner shall be enlarged on bail on condition that he 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 10 days from the date of receipt of a copy of this order, to the satisfaction of the learned Sessions Judge [FAC], Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi ;

(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 jurisdictional Police Station, viz., All Women Police Station, Tiruchendur, on every Monday, at 10.30 a.m., pending disposal of the appeal.

20.01.2026

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TO

- 1.The Inspector of Police,
All Women Police Station
Tiruchendur.
- 2.The Sessions Judge [FAC],
Special Court for Exclusive Trial of
Cases under POCSO Act, Thoothukudi.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.MALA,J

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