

WEB COPY

CRL MP No. 11962 of 2



Crl.A,No.830 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-07-2026

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THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL MP No. 11962 of 2026

IN

CRL A NO. 830 OF 2026

Mandai @ Manogaran
S/o.Poongavanam,
No.15E, Block,
New Corporation Colony,
Clive Factory, Chennai - 01.

..Petitioner(s)

Vs

The State rep by
the Inspector of Police
W-12, All Women Police Station,
Harbour Range, Chennai.
Crime No.03 of 2020.

..Respondent(s)

PRAYER: This criminal miscellaneous petition filed under Section 430(1) of BNSS Act, to suspend the execution of sentence imposed on the petitioner/Appellant by the Learned Sessions Judge, Special Court for the Exclusive Trial of Cases Under POCSO Act, Chennai in Special S.C.No.115 of 2021 dated 06.06.2026 pending disposal of the above appeal and enlarge the petitioner on bail.

For Petitioner(s):

Mr.K.Sudhakar

For Respondent(s):

Mrs.Sharada Vivek
Counsel for Government of Tamil Nadu
(Crl.Side)

**ORDER**

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The petitioner/accused in Spl.S.C.No.115 of 2021 convicted by the trial Court for offences under Section 8 of Protection of Children from Sexual Offences Act, 2019 and sentenced him to three years rigorous imprisonment and to pay a fine of Rs.1000/-, in default, to undergo simple imprisonment for three months.

2.The contention of the petitioner is that the petitioner and the victim are residing in the same compound. There was a fight between the petitioner and the victim's father and there was exchange of blows. Taking advantage of the minority of the girl, the victim's parents projected a false case as though the petitioner called the victim and sexually assaulted her. The case projected is that on 01.03.2020, when the victim was passing through the gate, the petitioner standing in the balcony whistled and called her. Since victim not responded the petitioner, he came down and pulled her hand and smiled at her, which act now interpreted, as though the petitioner with sexual intent pulled the victim. On that basis, a case filed.

3.In this case, there are only four witnesses. PW1 is mother of the victim. PW2 is victim. PW3 is the witness for observation mahazar, who not supported the case of the prosecution. PW5 is the investigating officer. PW2 is the witness



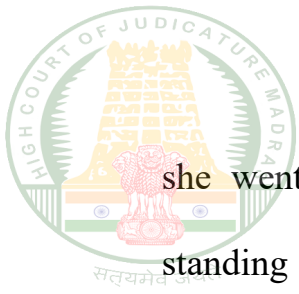
for occurrence proper, PW1 mother of the victim was informed by PW2. The

victim PW2 confirms that the petitioner only pulled her hand by force and

nothing else. Learned counsel further submitted that on the admitted facts of the case, the offence under Section 8 of POCSO Act is not made out, at most it will be under Section 11 of POCSO Act for harassment. Hence, the presumptions under Sections 29 & 30 of POCSO Act will not come into play. The trial Court judgment is erroneous.

4.Further, the learned counsel for the petitioner fairly submitted that though the petitioner was convicted for three years, before the trial Court counsel for the petitioner failed to appear at the time of receiving the judgement and not filed suspension of sentence petition. Hence, the petitioner was remanded. Normally conviction of three years and less will be suspended by the trial Court. In this case, due to non filing of suspension of sentence petition before the trial Court, now, the petitioner is suffering imprisonment. He further submitted that the petitioner detained in prison as an under trial for 65 days and after the judgment, from 06.06.2026 for more than 30 days, he is prison.

5.The learned counsel for Government of Tamil Nadu appearing for the respondent opposed the petitioner's contention and submitted that in this case, the defacto complainant mother of the victim lodged a complaint on 02.03.2020. The complaint is that her daughter PW2 on 01.03.2020 at about 8.00 p.m., when



she went to her aunts house to collect food, at that time, the petitioner, standing in balcony, whistled and called her. Since victim not responded, the petitioner came down, pulled the victim by hand and smiled at her with sexual intent. Hence, a case registered. The petitioner was arrested. Statement of witnesses recorded and after conclusion of investigation, charge sheet filed. During trial, PW1 to PW5 examined. Exs.P1 to P9 marked. The victim in her statement to the police and in her 164 statement and in her evidence confirms the act of the petitioner. The trial Court considered all these aspects and rightly convicted. She fairly submitted that the conviction is only for three years and in the normal course, a sentence of three years will be suspended by the trial Court itself. In this case, for what reason, petitioner not filed suspension of sentence petition is not known and petitioner is now confined in prison.

6.Considering the submissions made and on perusal of the materials available on record, it is seen that the victim examined as PW2 and she is the only witness to the occurrence. The overt act attributed against the petitioner is that the petitioner, who is standing in the balcony, whistled and called the victim. Since the victim not responded, the petitioner came down and pulled her by hand. Thereafter, the victim pulled herself out from him and informed the same to her mother PW1. From the statements of witnesses and materials available on record, it is seen that the petitioner pulled the victim by his hand, when the victim failed to respond to his whistle. Such act cannot be



straightaway termed as sexual intent and at most, it can be termed as harassment and not an act of sexual assault. Hence, the judgment needs to be re-considered.

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7. Considering the fact that there are arguable points involved in this appeal and it would take some time for the appeal to be taken up for final hearing, this Court is inclined to suspend the sentence imposed on the petitioner.

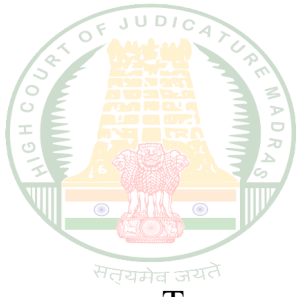
8. Accordingly, the substantive sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the above appeal and the petitioner is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.5,000/- (Rupees Five thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

9. Further, the petitioner shall appear before the trial Court once in three months on the first working day at 10.30 a.m. until the disposal of the criminal appeal.

10. Accordingly, this Criminal Miscellaneous Petition is ordered.

10-07-2026

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To
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- 1.The Learned Sessions Judge, Special Court for the Exclusive Trial of Cases
Under POCSO Act, Chennai
- 2.Central Prison, Puzhal, Chennai.
- 3.The Inspector of Police
W-12, All Women Police Station,
Harbour Range,
Chennai. Crime No.03 of 2020.
- 4.The Public Prosecutor
High Court, Madras.



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M.NIRMAL KUMAR, J.

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