WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-11-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL MP No. 933 of 2026
in CRL A No. 57 of 2026

Illyas

..Petitioner(s)

Vs

The State rep. by,
The Inspector of Police,
All Women Police Station,
Gudiattam, Vellore District.
Crime No.3 of 2019.

..Respondent(s)

Prayer: The Criminal Miscellaneous Petition is filed under Section 430(1) of BNSS, to suspend the sentence passed in Judgment dated 28.04.2025 in Special SC.No.116 of 2020 by the learned Sessions Judge, Special Judge (POCSO Act) 2012, Vellore, Vellore District by enlarging him on bail.

For Petitioner(s): Mr. M.G. Udaya Shankar
for Ms.S.Santha Kumari

For Respondent(s): Ms. Sharada Vivek,
Additional Public Prosecutor

ORDER

The Criminal Appeal challenges the Judgment passed in Spl.S.C.No.116 of 2020 by the learned Sessions Judge, Special Judge (POCSO Act) 2012, Vellore, Vellore District holding the petitioner guilty of the offences under Section 5(l)5(j)(ii) r/w 6 of the POCSO Act and Section 506(i) IPC and

https://www.mhc.tn.gov.in/judis

WEB COPY

sentencing him to undergo twenty years rigorous imprisonment and to pay a fine of Rs.10,000/- and in default, to undergo two years rigorous imprisonment for the offence under 5(l)5(j)(ii) r/w 6 of the POCSO Act and to undergo two years rigorous imprisonment for the offence under Section 506(i) IPC. The sentences were ordered to run concurrently.

2. Aggrieved by the same, the petitioner has preferred Crl.A.No.57 of 2026 before this Court along with the instant criminal miscellaneous petition.

3.It is the case of the prosecution that the petitioner and the victim were relatives; that taking advantage of the absence of the parents of the victim in the house, the petitioner had committed penetrative sexual assault on the victim girl, aged about 15 years at the time of occurrence, on several occasions, as a result of which, the victim girl became pregnant and delivered a child.

4.The learned counsel for the petitioner would submit that the victim and her parents turned hostile; that the trial Court relied upon the complaint, the Section 164 Cr.P.C., statement of the victim and the DNA report to hold the petitioner guilty of the offence; and same is liable to be set aside.

5. The learned Additional Public Prosecutor confirms that the fact that PW1 to PW3 turned hostile but, the DNA report confirms the fact that the

https://www.mhc.tn.gov.in/judis

WEB COPY

petitioner is the biological father of the child born to the victim and therefore, the impugned Judgment is justified and there is no reason to interfere with the impugned Judgment.

6.Admittedly, the victim and her parents, who were examined as PW1 to PW3, turned hostile. The trial Court relied upon the complaint and the Section 164 Cr.P.C., statement of the victim before the Magistrate, which are not substantive evidence. The DNA report is an opinion evidence. It has to be examined in the appeal as to whether conviction can be sustained on such evidence.

7.The petitioner is in custody from 28.04.2025. The appeal is not likely to be taken up in the near future. Considering all of the above facts, this Court is of the view that the petitioner has made out a *prima facie* case for suspension of sentence and therefore, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

8.Accordingly, this criminal miscellaneous petition stands allowed, and the sentence imposed on the petitioner is suspended till the disposal of the above criminal appeal, and the petitioner is ordered to be released on bail on the following conditions:

https://www.mhc.tn.gov.in/judis

WEB COPY

(a).The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Special Judge (POCSO Act) 2012, Vellore, Vellore District;

(b).The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and

(c).The petitioner shall appear before the Trial Court on the first working day of every month at 10.30 a.m. until the 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 Cr.P.C. 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.

02-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

TSG

Note: Issue order copy on 02.11.2026.

To

1.The Inspector of Police,
All Women Police Station,
Gudiattam, Vellore District.
Crime No.3 of 2019.

2.The Sessions Judge,
Special Judge (POCSO Act) 2012,
Vellore, Vellore District.

3.The Superintendent,
Central Prison, Vellore.

https://www.mhc.tn.gov.in/judis

4.The Public Prosecutor,
Madras High Court.

WEB COPY

https://www.mhc.tn.gov.in/judis

WEB COPY

SUNDER MOHAN, J.

TSG

CRL MP No. 933 of 2026
in CRL A No. 57 of 2026

02-11-2026

https://www.mhc.tn.gov.in/judis