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CrI.M.P.No.32 of 2025 in CrI.A.No.5 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.01.2025

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THE HONOURABLE MR.JUSTICE SHAMIM AHMED

CrI.M.P.No.32 of 2025

in

CrI.A.No.5 of 2025

S. Parthasarathy ... Petitioner

/vs/

The State, represented by
the Inspector of Police,
Vigilance and Anti-Corruption,
City-I, Detachment,
Chennai-28.

... Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389 of Cr.P.C./Section 430 of B.N.S.S praying to suspend the sentence imposed in C.C.No.3 of 2015 ated 27.12.2024 on the file of the Special Court for the cases under Prevention of Corruption Act, Chennai – 104 and to enlarge the petitioner/appellant on bail till the disposal of the Criminal Appeal.

For Petitioner ... Mr. K.M.Subramanian
assisted by Mr.K.M.S.Muthukumaran

For Respondent Mr.A.Gopinath,
Govt. Advocate (crl.side)

ORDER



This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed upon the petitioner, by judgment and order dated 27.12.2024 passed in C.C.No.3 of 2015 by the learned Special Court for the cases under Prevention of Corruption Act, Chennai-104 and to enlarge the petitioner on bail till the disposal of the criminal appeal.

2. The petitioner, who was the sole accused in C.C.No.3 of 2014 was convicted and sentenced by the trial court as follows:

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.7 of Prevention of Corruption Act, 1988.	To undergo 4 years RI and to pay a fine of Rs.50,000/-, in default in payment of fine, to undergo 3 months SI
	U/s.13(2), r/w.13(1)(d) of Prevention of Corruption Act, 1988	To undergo five years RI and to pay a fine of Rs.50,000/-, in default in payment of fine, to undergo 6 months SI

The substantive sentence of imprisonments are ordered to run concurrently. Challenging the above conviction and sentence, the petitioner has filed the above Criminal Appeal along with the instant miscellaneous petition, seeking suspension of sentence and bail.



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3. The case of the prosecution is that the petitioner, who is a Government Servant employed as Assistant Engineer in CMWSSB, Chennai Corporation has demanded illegal gratification of Rs.4000/- from the defacto complainant on 16.11.2013 for giving new Metro water connection in the name of mother of defacto complainant and accordingly as instructed by the accused/petitioner, the defacto complainant gave him bribe of Rs.4000/- to the accused at his residence on the same day. Pursuant to which, trap proceedings were initiated and the tainted money was seized from the petitioner. Thus, the petitioner herein, by abusing his official position, has committed the offence of criminal misconduct punishable under sections 7 and 13(2) r/w.13(1)(d) of the Prevention of Corruption Act.

4. The learned counsel for the petitioner submitted that the petitioner is an innocent and the case was foisted on 16.11.2013 based on the false complaint of the defacto complainant. The petitioner is utter innocent and the trial court without considering the important legal aspects, especially the official capacity, the non proving of the demand of bribe etc, has wrongly concluded the judgment into conviction.

5. He further submitted that PW3 and PW4 were put up and stock



witnesses after the alleged trap laid down by the respondent police and there is a vital contradiction between the PW3 and PW4 in respect of the demand of bribe in this case. The petitioner is aged about 66 years old and is a chronic BP and diabetic patient and also suffering from heart ailments, for which, he is taking treatment continuously and if the petitioner is detained in the prison without taking any proper treatment from his usual doctors who is treating him continuously for his ailments, there is endangerment for his life.

6. It was further argued that due to pendency of the criminal case before this High Court, there is a blinking chance that in the near future, this appeal will be finally heard and decided. He further submits that there are arguable points in this appeal and the petitioner has fair chance of success in this Criminal Appeal. Thus, he prayed for suspension of sentence till the disposal of this Criminal Appeal.

7. Several other submissions in order to demonstrate the falsity of the allegations made against the Appeal have also been placed forth before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been touched upon at length. It has been assured on behalf of the appellant that he is ready to cooperate with the



process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. The appellant undertakes that in case he is released on bail, he will not misuse the liberty of bail and will cooperate in disposal of appeal.

8. Learned Govt. Advocate (crl.side) appearing for the respondent, by way of filing counter, has opposed the argument advanced by the learned counsel for the Appellant and submits that the judgment passed by the court below is as per the law after considering the entire evidence, thus the relief sought by the Appellant at this stage be refused by this Court.

9. Heard Mr.K.M.Subramanian, learned counsel appearing for the petitioner and Mr.A.Gopinath, learned Govt. Advocate (crl.side) for the State and perused the counter and other materials available on record.

10.Considering the arguments advanced by the learned counsel for the petitioner as well as the learned Govt. Advocate (crl.side), this court is of the view that the trial court has failed to appreciate the evidence on record and the judgment was passed without considering the entire materials placed



before it and during trial, the appellant was also on bail.

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11. Further, it is observed that when the accused has been under incarceration for sometime and when there are points in the appeal, which favour the accused, then the court should not shy from granting suspension of sentence, as the liberty of the individual would be at stake if the appeal results in acquittal at a later point of time. In this regard, the decision of the Hon'ble Supreme Court of India in the case of ***Rabi Prakash Vs. The State of Odhisha reported in 2023 Live Law (SC) 533*** is of relevance.

12. The petitioner has raised substantial grounds in the Appeal which require detailed appraisal. Further, the Appeal is not likely to be taken up in the near future and now the appellant is under incarceration in Central Prison, Puzhal and the entire fine amount of Rs.1 lakhs has been paid before the trial court. In such view of the matter, this Court is of the view that the petitioner/appellant is entitled to the relief of suspension of sentence and bail.

13. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner/appellant namely - S.Parthasarathy on the following conditions:



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- (i) The petitioner/appellant is ordered to be released on bail on his executing a personal bond along with two sureties for a sum of Rs.15,000/- each before the learned Special Judge, Special Court for the case under Prevention of Corruption Act, Chennai subject to furnishing undertaking that he will co-operate in the hearing of the present Appeal.
- (ii) The petitioner/appellant and sureties shall affix their photographs and Left Thumb Impression in the bond and the abovesaid Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity; and;
- (iii) The realization of fine, if any, shall also remain suspended during the pendency of the present Appeal.

14. On acceptance of his bail bonds and sureties, the learned trial court shall transmit photostat copies thereof to this Court for being kept on records of this Appeal.

15. With the above directions, this Criminal Miscellaneous Petition is ordered.

09.01.2025

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1. The Special Juge,
Special Court for the cases under
Prevention of Corruption Act,
Chennai – 104.
2. The Inspector of Police,
Vigilance and Anti-Corruption,
City-I, Detachment,
Chennai-28.
3. The Superintendent,
Central Prison, Puzhal.

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SHAMIM AHMED, J.

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