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Crl.M.P.No.172 of 2025 in Crl.A.No.27 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.01.2025

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THE HONOURABLE MR.JUSTICE SHAMIM AHMED

Crl.M.P.No.172 of 2025

in

Crl.A.No.27 of 2025

Karunakaran
S/o.Rathinaraj

... Petitioner

/vs/

State, represented by
Inspector of Police,
Vigilance and Anti-Corruption,
Kancheepuram
(Crime No.08/AC/2014)

... Respondent

Prayer : Criminal Miscellaneous Petition filed under section 430(1) of of B.N.S.S praying to suspend the sentence imposed on the petitioner by the learned Chief Judicial Magistrate cum Special Judge at Chengalpet in Special Case No.13 of 2015, by order dated 30.12.2024 and enlarge the petitioner on bail

For Petitioner ... Mr. I. Kabilan

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



ORDER

WEB COPY This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed upon the petitioner, by judgment and order dated 30.12.2024 passed in Special Case No.13 of 2015 by the learned Chief Judicial Magistrate cum Special Judge at Chengalpet and to enlarge the petitioner on bail till the disposal of the criminal appeal.

2. The petitioner, who was the sole accused in Special Case No.13 of 2015 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 2 years SI and to pay a fine of Rs.10,000/-, in default in payment of fine, to undergo one month SI
	U/s.13(2), r/w.13(1) (d) of Prevention of Corruption Act, 1988	To undergo two years SI and to pay a fine of Rs.10,000/-, in default in payment of fine, to undergo one month 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 O&M, TNEB, Siruseri, Kanchipuram District has demanded illegal gratification of Rs.5000/- each from the defacto complainant on 07.10.2014 for giving 7 individual electricity service connection for each portion of his property. Not willing to give bribe, the defacto complainant lodged a complaint before the respondent police on 13.10.2014 in crime No.08 of 2014, pursuant to which, trap proceedings were laid, followed by which, the defacto complainant along with accompanying witness G.Thirunavukkarasu met the appellant and he accepted the amount of Rs.28,000/- as illegal gratification and 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 innocent and a false case was foisted against him. The petitioner cannot demand bribe from PW2/defacto complainant as he was not empowered to



give for more than one EB service connection in poramboke lands. 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 the prosecution has suppressed the complaint given by PW2 on 13.10.2014 and the contents of the present complaint are totally false and it was prepared on the whims and fancies of the Vigilance Police. The Vigilance Police never followed the rules framed for the procedures to be adopted in pre-trap proceedings and the Vigilance Police already prepared the Entrustment Mahazar in the absence of PW2, PW3 and LW4 which is totally illegal and is a big dent in the prosecution case. It is his further submission that according to PW2, the alleged occurrence was said to have taken place outside the office of the petitioner, whereas PW3 deposed that the occurrence was taken place inside the office of the appellant, therefore the prosecution has not proved the place of occurrence which is fatal to the prosecution case.

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 appellant/petitioner 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, has opposed the argument advanced by the learned counsel for the petitioner and submits that the judgment passed by the court below is as per the law after



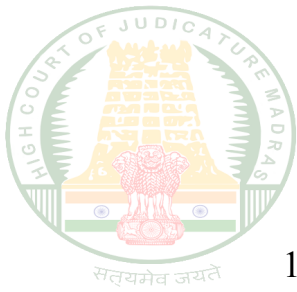
considering the entire evidence, thus the relief sought by the appellant at this stage be refused by this Court.

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9. Heard Mr.I.Kabilan, learned counsel appearing for the petitioner and Mr.A.Gopinath, learned Govt. Advocate (crl.side) for the State and perused the 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.

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.

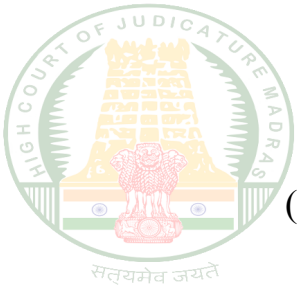


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12. The petitioner has raised substantial grounds in the Appeal which require detailed appraisal. Further, the Appeal is not likely to be taken up in the near future and the entire fine amount of Rs.20,000/- has been paid before the trial court on 30.12.2024 as per receipt No.10763850. 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 – Karunakaran Son of Rathinaraj on the following conditions:

- (i) The Revision petitioner shall surrender before the Chief Judicial Magistrate cum Special Judge at Chengalpet within three weeks from the date of receipt of a copy of this order and on such surrender, the revision petitioner 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 subject to furnishing undertaking that he will co-operate in the hearing of the present Revision.
- (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;



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- (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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To

1. The Chief Judicial Magistrate cum Special Judge
Chengalpet
2. The Inspector of Police,
Vigilance and Anti-Corruption,
Kancheepuram.



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SHAMIM AHMED, J.

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

09.01.2025