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Crl.M.P.No.410 of 2025 in Crl.A.No.56 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.01.2025

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THE HONOURABLE MR.JUSTICE SHAMIM AHMED

Crl.M.P.No.410 of 2025

in

Crl.A.No.56 of 2025

Thiru.P.K.Panchaksharam
Son of P.P.Kuppusamy Mudaliar

... Petitioner

/vs/

The State, represented by
Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Chennai City - IV,
Nandanam, Chennai-35.
(Cr.No.24/AC/2010/KM)

... Respondent

Prayer : Criminal Miscellaneous Petition filed under section 430(1) of B.N.S.S praying to suspend the sentence imposed on the petitioner by the learned Special Judge cum Chief Judicial Magistrate at Kancheepuram, by his judgment dated 30.12.2024 in Special Case No.04 of 2024 in Old Spl.S.C.No.14 of 2011 and enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner ... Mr. I. Kabilan

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



ORDER

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2. The petitioner, who was the sole accused in Special Case No.04 of 2024 in Old Spl.S.C.No.14 of 2011 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 3 years RI and to pay a fine of Rs.10,000/-, 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 three years RI and to pay a fine of Rs.10,000/-, in default in payment of fine, to undergo 3 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.

3. The case of the prosecution is that the petitioner, who is a Government Servant employed as Executive Engineer, O&M, Kanchipuram North TNEB, has demanded illegal gratification of Rs.10,000/- from the defacto complainant on 18.11.2010 for sanctioning of EB service connection to the house site belonging to the defacto complainant and accordingly on 19.11.2010 at 10 am, the defacto complainant contacted him over cellphone and at that time the petitioner asked him to come in the evening by 6 p.m. with Rs.10,000/- cash, so that, he would arrange to give electricity connection immediately. Since the defacto complainant was not inclined to give bribe, he preferred a complaint before PW10 TLO on 19.11.2010. Subsequently, a trap was organised on 19.11.2010 by 4.45 p.m. at Hotel Saravana Bhavan, Kancheepuram and tainted money was seized. According to the prosecution, the petitioner demanded and accepted a bribe amount of Rs.10,000/- and he was arrested on 19.11.2010. 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.



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4. The learned counsel for the petitioner submitted that the petitioner is an innocent person and a false case was foisted against him by the defacto complainant/PW2. 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 according to prosecution PW2 lodged a complaint as if the appellant demanded Rs.10,000/- to effect EB connection to defacto complainant's house, but this is utter false, because PW2 in his Chief Examination, had deposed that since the EB office was prolonging to give connection to his house, he consulted with his friends and they have advised him to lodge complaint to the Vigilance Police, so that, work will be done immediately. Therefore, he went to Vigilance Office and said the above matter but the Vigilance Police dictated a complaint which was reduced in writing by PW2. He further submitted that PW2 never intended to lodge complaint against the appellant. During his cross examination PW2 deposed that the appellant never demanded any bribe from him. Thus PW2 has not supported the prosecution story and he deposed truth before the trial court.



PW2 in his cross examination clearly stated that the appellant never asked any bribe from him.

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6. It is his further submission that PW2 in his entire deposition never stated that the Appellant demanded bribe to sanction the estimate forwarded by the Junior Engineer. Therefore, the prosecution has miserably failed to prove the demand aspect in this case. The petitioner is aged about 69 years old and has been suffering from old age 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.

7. 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.

8. 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.

9. 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.

10. 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 counter and other materials available on record.



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11. 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.

12. 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.

13. 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 vide receipt No.10774063. 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.



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14. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner/appellant namely - P.K.Panchaksharam, son of P.P.Kuppusamy Mudaliar on the following conditions:

- (i) The Revision petitioner shall surrender before the learned Chief Judicial Magistrate cum Special Judge at Kancheepuram within three weeks from the date of receipt of a copy of this order and on such surrender, he 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;
- (iii) The realization of fine, if any, shall also remain suspended during the pendency of the present Appeal.

15. 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.



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

20.01.2025

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To

1. The Chief Judicial Magistrate cum
Special Judge, Kancheepuram.
2. The Superintendent of Police,
Vigilance and Anti Corruption,
Chennai City-IV,
Nandanam, Chennai-35.
- 3 The Public Prosecutor,
High Court, Madras.



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SHAMIM AHMED, J.

msr

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