



Crl.M.P.No.1045 of 2025 in Crl.A.No.100 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.01.2025

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THE HONOURABLE MR.JUSTICE SHAMIM AHMED

Crl.M.P.No.1045 of 2025

in

Crl.A.No.100 of 2025

P. Saravanan

... Petitioner

/vs/

State represented by
Inspector of Police,
Vigilance and Anti-corruption,
Tiruppur District
Cr.No.05/2013/AC/TPR

... Respondent

Prayer : Criminal Miscellaneous Petition filed under section 430 of B.N.S.S praying to suspend the sentence imposed on the petitioner by the judgment dated 03.01.2025 made in Special C.C.No.39 of 2014 on the file of the Chief Judicial Magistrate, Tiruppur and enlarge the petitioner on bail, pending disposal of the above appeal.

For Petitioner ... Mr.P. Kannan Kumar

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 03.01.2025 passed in C.C.No.39 of 2014 by the learned Chief Judicial Magistrate, Tiruppur 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.39 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 one year RI and to pay a fine of Rs.500/-, 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 one year RI and to pay a fine of Rs.500/-, 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 Junior Assistant at Panchayat Union Office, Appiyampalayam, has demanded illegal gratification of Rs.5000/- for taking action on the application made by the defacto complainant-Aruchami for renewal of his contract with Panchayat Union Office on 11.07.2013 and subsequently on 25.07.2013, he accepted the bribe of Rs.5000/- from the complainant Aruchami. 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 a false case was foisted against him based on the complaint of the defacto complainant. The petitioner is utter innocent and has not at any material point of time or earlier as alleged by the respondent/complainant, neither demand nor accepted any illegal gratification or bribe amount in any manner or whatsoever, however, 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 not proved the case beyond reasonable doubts and the contradictions in lodging of FIR at different timings, as deposed by the witnesses itself were not considered by the trial court. The trial court has miserably failed to note that the demand was not established and the Government witnesses have never present in the scene of crime. The trial court also failed to consider the petitioner/accused has no power to grant extension of time for contract sought by the defacto complainant. There are contradictions and mismatching of materials found in the prosecution case, hence the onus lies on the prosecution to establish the guilt, but the same was not considered by the trial court.

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.

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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 P.Kannan Kumar, 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.

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 the entire fine amount of Rs.1000/- has been paid on



03.01.2025 vide receipt No.D.8794349 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 – P.Saravanan, Son of M.Palanisamy on the following conditions:

- (i) The petitioner/appellant shall surrender before the Chief Judicial Magistrate, Tiruppur 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;
- (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.

28.01.2025

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To

1. The Chief Judicial Magistrate, Tiruppur
2. Inspector of Police,
Vigilance and Anti-corruption,
Tiruppur District
3. The Public Prosecutor, High Court, Madras.



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SHAMIM AHMED, J.

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