



WEB COPY

Crl.M.P.No.1085 of 2025 in Crl.A.No.105 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.01.2025

CORAM

THE HONOURABLE MR.JUSTICE SHAMIM AHMED

Crl.M.P.No.1085 of 2025

in

Crl.A.No.105 of 2025

P. Soundararajan

... Petitioner

/vs/

State by
Inspector of Police,
Special Investigation Cell,
Vigilance and Anti-Corruption,
Chennai.

Crime No.23/AC/2011

... Respondent

Prayer : Criminal Miscellaneous Petition filed under section 430 (1) of B.N.S.S praying to suspend the sentence imposed upon the petitioner/appellant by the Special Judge cum Chief Judicial Magistrate at Chengalpet in Special Case No.09 of 2013, dated 06.01.2025 pending disposal of the above appeal.

For Petitioner ... Mr.P.Ezhil Nilavan

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 06.01.2025 passed in Special Case No.09 of 2013 by the learned Special Judge and Chief Judicial Magistrate 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.09 of 2013 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 two years RI 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 RI 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.

WEB COPY

3. The case of the prosecution is that the petitioner, who is a Government Servant employed as Inspector of Police (Crime) S-8, Aadhambakkam Police Station, Chennai-88, from 02.08.2010 to 21.11.2021, has demanded illegal gratification of Rs.5000/- as monthly mamool on 21.11.2011 from one T.Joseph Benziger, Partner in Rose Gas Agencies for not harassing the employees of Rose Gas Agencies and for not foisting any complaint against Joseph Benziger. Subsequently on 21.11.2011, he accepted the bribe of Rs.5000/- from the complainant. Pursuant to which, trap proceedings were initiated and the tainted money was seized from the petitioner. Thus, the petitioner herein, by abusing her 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 her 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 acceptance of the tainted bribe money was not proved by the prosecution beyond reasonable shadow of doubt to discharge its initial burden. The prosecution has miserably failed to prove the demand aspect which is fatal to the prosecution case. A false case has been registered for statistical purpose, and the TLO made the trap as if it was a successful one.

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. The petitioner has been languishing in prison from the date of judgment of the trial court. Thus, he prayed for suspension of sentence till the disposal of this Criminal Appeal.



WEB COPY

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.P.Ezhil Nilavan, 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.



WEB COPY

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 now the entire fine amount of Rs.20,000/- has been paid on 06.01.2025 vide receipt No.10763856 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. Soundararajan, S/o. Palaniappan, on the following conditions:

- (i) The Revision petitioner shall surrender before the Special Judge and Chief Judicial Magistrate 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;
- (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.



Crl.M.P.No.1085 of 2025 in Crl.A.No.105 of 20__

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

ordered.

WEB COPY

28.01.2025

msr

To

1. The Special Judge and Chief Judicial Magistrate,
Chengalpet.
2. The Inspector of Police,
Special Investigation Cell,
Vigilance and Anti-Corruption,
Chennai.
3. The Public Prosecutor, High Court, Madras.



WEB COPY



Crl.M.P.No.1085 of 2025 in Crl.A.No.105 of 20--

SHAMIM AHMED, J.

msr

Crl.M.P.No.1085 of 2025
in
Crl.A.No.105 of 2025

28.01.2025