IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No.1236 of 2025
in Crl.A.No.123 of 2025

T.V.Krishna Rao ... Petitioner

Vs.

The Deputy Superintendent of Police,
CBI/EOW, Chennai. ... Respondent

PRAYER: Criminal Miscellaneous Petition is filed under Section 415 of Bharatiya Nagarik Suraksha Sanhita, 2023, to order execution of the sentence passed in C.C.No.30 of 2010 by judgment, dated 27.12.2024 on the file of the XI Additional Special Judge for CBI Cases, Chennai, appealed against be suspended and the petitioner/appellant may be released on bail, pending appeal.

For Petitioner	:	Mr.K.Sukumaran
For Respondent	:	Mr.B.Mohan, Special Public Prosecutor

ORDER

This criminal miscellaneous petition has been filed to suspend the sentence of imprisonment imposed by the learned XI Additional Special Judge for CBI Cases (CBI Cases Relating to Banks & Financial Institutions), Chennai in C.C.No.30 of 2010, dated 27.12.2024.

2.The conviction and sentence imposed on the petitioner in C.C.No.30 of 2010 is as follows:

- For offence under Section 420 IPC, the petitioner is sentenced to undergo four years Rigorous Imprisonment and to pay a fine of Rs.1,00,000/-, in default to undergo Simple Imprisonment for one year.
- For offence under Sections 467, 468, 471 r/w 467 IPC, the petitioner is sentenced to undergo seven years for each Section (3 X 7 = 21) and to pay a fine of Rs.1,00,000/- for each Section (3 X 1Lakh = 3 lakhs), in default to undergo one year Simple Imprisonment.

3.A complaint was lodged by the General Manager, Central Bank of India, Zonal Office to the respondent on 03.09.2009 and FIR in RC.No.4/E/2009-CBI/EOW/Chennai for the offence under Sections 120-B r/w 420, 419, 467, 468, 471, 409 and 201 of IPC along with 13(2) r/w 13(1)(c) & (d) of Prevention of Corruption Act, 1988 registered against 13 accused. The crux of the charge is that during the month of July 2009, with an intention to cheat the Fixed Deposit (FD) amount of Rs.25 Crores deposited by the Northern Coalfields Limited (In short 'NCL') to the Central Bank of India, Mugappair Branch, Chennai, the petitioner/A1 and Sankara Kumar/A2, the Branch Manager, Branch Manager, Central Bank of India, Mugappair Branch had entered into a criminal conspiracy with the other accused. Pursuant to which, A2/Branch Manager sent a letter, dated 21.07.2009 to the NCL offering 6.01% interest rate per year against the permissible interest rate of the Central Bank of India. Taking the higher rate of interest into account, the NCL transferred Rs.25 Crores to the Complainant Bank at Mugappair Branch on 23.07.2009. On the same day, the petitioner submitted forged fax message, dated 23.07.2009 to the Bank Manager/A2 as if NCL requested the Branch Manager/A2, Central Bank of India to transfer the said FD amount to A1, Proprietorary Concern M/s.Krishna Builders towards their construction agreement due. Simultaneously forged FDR, dated 23.07.2009 received by NCL through a speed post as if the FD for Rs.25 Crores was opened by the Central Bank of India, Mugappair. On receipt of forged fax message, A2/Branch Manager by abusing his official position and indulging in criminal misconduct to misappropriate bank account, had transferred Rs.25 Crores in the current account of M/s.Krishna Builders on 24.07.2009 and on such transfer, the petitioner/A1 swindled the entire fund by diverting the amount into various accounts maintained by A3 to A13 and settled his payment to others. When NCL requested for closure of the FD, at that time it came to light that a forged FDR sent to the NCL. Thus, the accused had committed the offecne and thereby, the Central Bank of India had to pay the huge amount of Rs.25 Crores to the NCL.

4.During trial, on the side of the prosecution 33 witnesses examined as PW1 to PW33 and 250 documents marked as Exs.P1 to P250. On the side of the defence, 7 witnesses examined as DW1 to DW7 and 30 documents marked as Exs.D1 to D30. On conclusion of trial, the Trial Court convicted the petitioner as stated above.

5.The learned counsel for the petitioner submitted that the prosecution produced a letter (Ex.P240/D3), dated 23.07.2009 by NCL to the Senior Manager of Central Bank of India, Mogappair and another photostat copy of the letter (Ex.P114), which are said to be seized from the premises of the petitioner. The Trial Court primarily proceeds on three forged letters but failed to consider that three documents not produced in the manner known to law and further it is only a photostat copy. He further submitted that Ex.P112 is the Term Deposit Receipt in the name of the NCL and Ex.P111, dated 02.09.2009 is the letter by NCL to the Senior Manager, Central Bank of India, Mugappair Branch and the petitioner has got nothing to do with these documents. The Trial Court gave a finding that Exs.P114 & P155 are one and the same and PW12, the Chief General Manager of NCL in its letter, dated 21.07.2009 admits that Ex.P155 was addressed by the then Senior Manager, Central Bank of India, Mugappair offering 6.01% of interest rate for one year. The Trial Court had given a finding that the accused not disputed failing to consider the cross examination and dispute raised during trial. The second forged letter is Ex.P240 which is a fax letter, dated 23.07.2009. This letter was sent by the then Manager of the Central Bank of India, Mugappair and it is projected as though a copy of it was recovered from the petitioner's business premises and this letter recorded as forged document. Based on the forged documents, the funds transferred. Though the Trial Court had given a finding that Ex.P112 is not a created document by A2/Branch Manager in this case, but had not given a finding who forged and how the document reached NCL. Only for the reason that the amount was diverted to various petitioner's account which was subsequently diverted to the accounts of the other accused, it cannot be held that the petitioner is the reason for the creation of these documents.

6.He further submitted that for the loan availed, the petitioner earlier executed a mortgage deed on his properties on 06.03.2008 much before the alleged forgery and transfer of funds. Further, the title deeds of the petitioner's property in plot No.1 measuring to the extent of 2450 sq.ft in V.V.Giri Street, Thirumullaivoyal Village, Ambattur Taluk and plot Nos.6, 7, 8, 9, 14, 15, 16, 17, 18 and 25 measuring to the extent of 3252, 3600, 1800, 1800, 1800, 1815, 1107 and 2183 sq.ft at Ram Nagar, Kakkalur Panchayat Union, were mortgaged. Likewise, the plot No.58 Pathamvathy Nagar at Periyakuppam to the tune of 2800 sq.ft and nanjai land of 40 cents in Kadambathur Village, Thiruvallur District, were mortgaged and the Complainant Bank had taken SARFAESI proceedings attaching the properties. According to the petitioner, around Rs.10 Crores already settled and the petitioner is due to the tune of Rs.15 Crores to the Complainant Bank as on 15.11.2024. On a conservative estimation, the guideline value of these properties is to the tune of Rs.17,89,42,700/- and the market value is to the tune of Rs.53 Crores. Thus, the interest of the Bank safeguarded and already SARFAESI proceedings initiated. The Enforcement Agency filed a criminal case in C.C.No.4 of 2014 before the learned Principal Sessions Judge, Chennai, in which the complainant bank admitted the dues of the petitioner and the above properties mortgaged with the bank. The petitioner has no objection for the bank to recover its dues from the available properties. The scanned reproduction of the affidavit filed by the petitioner is as follows:

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Crl. M.P. No. 1236 of 2025

In

C.A. No. 123 of 2025

T.V. Krishna Rao
Proprietor of M/s. Krishna Builders
No. 1/458, Bazaar Street,
Kadmabathur, Thiruvallur District – 631203
Presently at
Puzhal Prison, Puzhal, Chennai.

...Petitioner/Appellant

-vs-

The Deputy Superintendent of Police
CBI/EOW, Chennai.

...Respondent/Respondent

AFFIDAVIT OF KRISHNA RAO

I, T.V. Krishna Rao, Proprietor of M/s. Krishna Builders having office at No. 1/458, Bazaar Street, Kadmabathur, Thiruvallur District – 631203, presently at Puzhal Prison, Puzhal, Chennai, do hereby solemnly affirm and sincerely state as follows:

1. I state that I am the Petitioner herein and Appellant in the above Appeal and as such I am well acquainted with the facts and circumstances of the case.

2. I state that I have filed the above Appeal against the Conviction and Sentence in C.C. No. 30/2010 on the file of XI Additional Special Judge for CBI cases, Chennai. The Judgment dated 27.12.2024 and I have been sentenced for 7 years. Against the said Judgment, the Crl. M.P. No. 1236 of 2025 is filed for Suspension of Sentence.

T.V. Kishna

JAILOR
Central Prison-I, (Convict)
Puzhal, Chennai-66

3. I state that the De-facto Complainant, Central Bank of India, Mogapair Branch has filed petition in Crl. M.P. No. 1 of 2024 in C.C. No. 4 of 2014 on the file of Principal Sessions Judge, City Civil Court, Chennai for raising the attachment in relation to the properties belonging to me.

4. The Enforcement Directorate had also said no objection for the Bank to proceed against the properties for realization of money due to the Bank.

5. I submit that according to me the properties to be proceeded by the Bank as per guideline value is Rs. 17,89,42,700/-. Documents showing guideline value for the properties are enclosed hereto. The Market Value according to me is Rs. 53 crores.

6. I submit that I will not be an obstacle or hurdle for the Bank to realize the money by proceeding against the properties owned by me and attached by the Enforcement Directorate as per law.

This Affidavit may be considered by this Hon'ble Court to grant the discretionary relief and pass such Orders as deems fit and thus render justice.

T.V.Kiran

Solemnly Affirmed at Chennai
On this the 14th day of March, 2025
And signed his name in my presence

BEFORE ME

JAILOR
Central Prison-I, (Convict)
Puzhal, Chennai-66

7.The learned counsel for the petitioner produced the copy of the affidavit filed by the Bank in C.M.P.No.1 of 2024 in C.C.No.4 of 2014 and the counter filed by the Directorate of Enforcement in the said proceedings disputing certain contentions of the Bank including transfer of funds to the other accused. The petitioner produced the copy of the suspension of sentence granted to A10 in Crl.M.P.No.209 of 2025 in Crl.A.No.38 of 2025 and A5 in Crl.M.P.No.1208 of 2025 in Crl.A.No.118 of 2025 and A9 in Crl.M.P.No.621 of 2025 in Crl.A.No.63 of 2025. The petitioner also produced the fine receipt for payment of Rs.4 Lakhs to the credit of C.C.No.30 of 2010.

8.The learned Special Public Prosecutor appearing for the respondent filed counter stating that the case RC 14(E)/2009-CBI/EOW/Chennai was registered on 4.09.2009 for offence under Sections 120-B r/w 420, 419, 467, 468, 471, 409 and 201 IPC and Section 13(2) r/w 13(1) (c) (d) of Prevention of Corruption Act, 1988 and substantive offences thereof against A1, A2 and unknown persons based on the written complaint lodged by the complainant regarding alleged siphoning of FD amount of Rs.25 Crores deposited by NCL. On completion of investigation, charge sheet filed before the Trial

Court against the petitioner and 12 others for the offence punishable under Sections 120-B r/w 409, 419,420, 467, 468, 471, 472, 474, 201, 114 IPC and Section 13(2) r/w 13(1)(c) & (d) of Prevention of Corruption Act, 1988. A1, Proprietor of M/s.Krishna Builders got transfer the FD amount of Rs.25 Crores to his account by submitting forged fax purportedly issued by NCL in furtherance of criminal conspiracy with other accused persons, A2 to A13. The total loss caused to the Bank was around Rs.25 Crores. He further submitted that A1 approached A2 with a false and fabricated fax message dated 23.07.2009 purportedly said to have issued by NCL and wherein he claimed that the amount of Rs.25 Crores was permitted to be credited to his account namely M/s.Krishna Builders. Since, there was a conspiracy between A1 & A2, in view of that A2 fraudulently and dishonestly credited the said Fixed Deposit amount of Rs.25 Crores to A1's current account, with oblique motive. Subsequently A1 diverted the above said Rs.25 Crores, to various accounts illegally and misappropriated the same and thereby caused the wrongful loss to the Government Treasury and thereby caused the wrongful gain themselves. The Trial Court took the charge sheet on file and C.C.No.30 of 2010 was allotted to this case. The cognizance was taken in this case and charges were framed against the accused persons. On conclusion of the trial, the Trial Court convicted the petitioner as stated above.

9.It is further submitted that the petitioner is currently imprisoned in Central Prison, Puzhal followed by the judgment issued by the Trial Court. The role of the accused in the criminal conspiracy was significant and was proved beyond a doubt by the prosecution through both witness and documentary evidence presented during the trial. Hence, he prays for dismissal of the petition.

10.Considering the rival submissions and on perusal of the materials, it is seen that the Trial Court had given a finding that documents *viz.,* Exs.P114 & 115, dated 21.07.2009 are forged which were received by the Chief General Manager of NCL. PW12, the Chief General Manager states that the said letters received from the Central Bank of India, Mugappair Branch to park the surplus funds of Rs.25 Crores in FD for one year. The evidence of PW2 and PW3, the witnesses from the Central Bank of India, Mugappair Branch is that no such letter sent by them to NCL. Likewise, a copy of the fax letter (Ex.D3), dated 23.07.2009 of the Central Bank of

India, Mugappair Branch was recovered from the petitioner's office premises. From Ex.D3, it is seen that the NCL requested to transfer of Rs.25 Crores in favour of M/s.Krishna Builders. Since the contention of the NCL is that no such fax letter (Ex.D3) was sent to the Complainant Bank on 23.07.2009, this letter held as forged.

11.Likewise, Ex.P112 is the Term Deposit Receipt produced by NCL. It is projected that Ex.P112 was created by the then Chief Manager, but on the evidence of DW1, Director, Truth Labs and DW6, Deputy Director CFSL, the Trial Court held that the FD was not issued by the then Chief Manager. Since the petitioner received the ill-gotten money of Rs.25 Crores for his enrichment and closed his loan liabilities, he found guilty. In this case, it is no doubt that the petitioner is a beneficiary. With regard to the other aspects of discarding the attending circumstances of how a banking procedure has been flouted despite the categorical evidence of bank witnesses and the offer letter of the bank which was submitted to the NCL for higher rate of interest than the prescribed rate of interest, the same not considered. Further, the bank witnesses confirmed RTGS transfers. The objection of the Bank Accountant and others with regard to non-signing of relevant vouchers not considered by the Trial Court. The admitted position of the Complainant bank is that the petitioner is due to the tune of Rs.15 Crores and the petitioner's contention is that his property to the tune of Rs.17,89,42,700/- already mortgaged with the bank and the market value of the property is Rs.53 Crores. This is recorded in the order, dated 18.02.2025 passed by the learned Principal Sessions Judge, City Civil Court, Chennai in Crl.M.P.No.1 of 2024 in C.C.No.4 of 2014.

12.The objection of the Special Public Prosecutor with regard to para 6 of the affidavit filed by the petitioner is that realization of money on the basis of the provisions as per law and maximum price may be realized would only create obstacle in realization of the money lost by the bank. The learned counsel for the petitioner submitted that as regards the word maximum price may be realized can be deleted and the petitioner would not be an obstacle for the bank to realize the money from the mortgaged properties. The attachment and realization proceedings are already in progress. The Trial Court acquitted A2, A4, A6, A11 and A12 from all the charges and A1, A5, A8, A9 and A10 from the charges of conspiracy, impersonation, abatement, disappearance of evidence and from the

Prevention of Corruption Act. This needs reconsideration.

13.Finding there are arguable points in the appeal and the appeal is a statutory one and it will take some time for the appeal to be taken up for final hearing, this Court is inclined to grant suspension of sentence till the disposal of the present criminal appeal.

14.Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the appeal and he is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

15.Further, the petitioner shall appear before the Trial Court at 10.30 a.m., once in three months commencing from the month of March, 2025 till the disposal of the criminal appeal. Accordingly, this Miscellaneous Petition is ordered.

20.03.2025

Speaking Order/Non Speaking Order
Index : Yes/No
Internet : Yes/No
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To

1.The XI Additional Special Judge
(CBI Cases Relating to Banks & Financial Institutions),
Chennai.

2.The Deputy Superintendent of Police,
CBI/EOW, Chennai.

3.The Jailor,
Central Prison-I, Puzhal, Chennai.

3.The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.

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Crl.M.P.No.1236 of 2025
in Crl.A.No.123 of 2025

20.03.2025