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Crl.M.P.No.1163 of 2025 in Crl.A.No.111 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.1163 of 2025

in

Crl.A.No.111 of 2025

M.Kalaiselvi

... Petitioner

/vs/

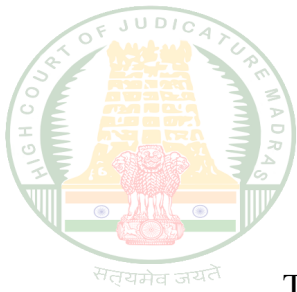
State by
Inspector of Police,
Vigilance and Anti-Corruption,
Chennai City-I Detachment,
Chennai 600 028.

... Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389 (1) of Cr.P.C./Section 430 of B.N.S.S praying to suspend the sentence imposed upon the petitioner/appellant by the Special Court for Prevention of Corruption Act Cases at Chennai in C.C.No.5 of 2014, dated 21.01.2025 pending disposal of the above appeal.

For Petitioner ... Mr.S. Xavier Felix

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



ORDER

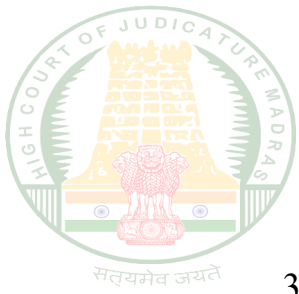
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This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed upon the petitioner, by judgment and order dated 21.01.2025 passed in C.C.No.5 of 2014 by the learned Special Court for Prevention of Corruption Act Cases at Chennai 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.5 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 4 years RI and to pay a fine of Rs.50,000/-, 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 five years RI and to pay a fine of Rs.50,000/-, in default in payment of fine, to undergo 6 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.



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3. The case of the prosecution is that the petitioner, who is a Government Servant employed as Sub Inspector of Police (Law and Order) at J-7, Velachery Police Station, Chennai, has demanded illegal gratification of Rs.2000/- for settling the dispute between the defacto complainant Selvaraj and one Alagesan and on 11.11.2013, subsequently accepted the bribe of Rs.2000/- 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

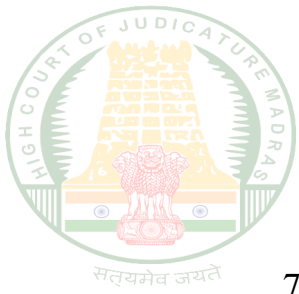


the judgment into conviction.

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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 trial court has miserably failed to appreciate the elaborate cross examination of PW2 and the outcome of the same is proved the motive of previous enmity of the defacto complainant to wreck vengeance and to implicate her in a false and fabricated case without any demand of illegal gratification. The petitioner, who is a women has been rendering unblemished, impeccable and spotless service in the department and she never come to the adverse inference of her superior officers during her tenure from 1990.

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.



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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 Mr.S.Xavier Felix, 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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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 appellant is under incarceration in Central Prison for Women, Puzhal, Chennai and the entire fine amount of Rs. 1 lakh has



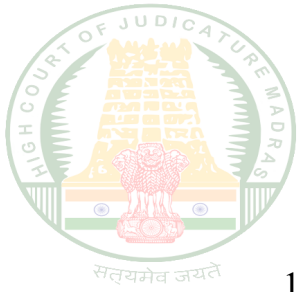
been paid on 21.01.2025 before the trial court. In such view of the matter,

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 – M.Kalaiselvi, W/o.Chittibabu on the following conditions:

- (i) The petitioner/appellant is ordered to be released on bail on her executing a personal bond along with two sureties for a sum of Rs.15,000/- each before the learned Special Judge, Special Court for Prevention of Corruption Act Cases at Chennai subject to furnishing undertaking that she will co-operate in the hearing of the present Appeal.
- (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 her 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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15. With the above directions, this Criminal Miscellaneous Petition is ordered.

28.01.2025

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Note: Issue copy on 28.01.2025

To

1. The Special Judge,
Special Court for the cases under
Prevention of Corruption Act,
Chennai – 104.
2. The Inspector of Police,
Vigilance and Anti-Corruption,
Chennai City-I, Detachment,
Chennai-28.
3. The Superintendent,
Central Prison for Women,
Puzhal, Chennai
4. The Public Prosecutor, High Court, Madras.

SHAMIM AHMED, J.



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