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CrI.M.P.No.2831 of 2024 in CrI.A.No.746 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.01.2025

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THE HONOURABLE MR.JUSTICE SHAMIM AHMED

CrI.M.P.No.2831 of 2024

in

CrI.A.No.746 of 2023

D. Thilagam

... Petitioner

/vs/

State by
The Inspector of Police,
Vigilance and Anti-Corruption,
Kancheepuram, Kancheepuram District
Cr.No.3/AC/2013/KM

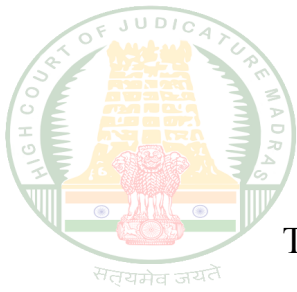
... Respondent

Prayer : Criminal Miscellaneous Petition filed under section 389(1) of Cr.P.C. praying to suspend the conviction and sentence imposed on the petitioner in Spl.C.C.No.9 of 2014, dated 23.06.2023 on the file of the Chief Judicial Magistrate/Special Court, Thiruvallur, Thiruvallur District and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

For Petitioner ... Ms. Karpagalakshmi
for Mr.C.Prakasam

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

ORDER



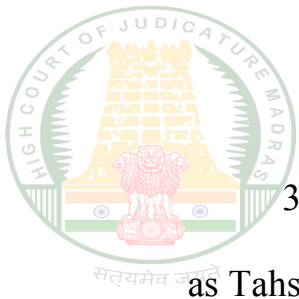
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This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed upon the petitioner, by judgment and order dated 23.06.2023 passed in Spl.C.C.No.9 of 2014 by the learned Chief Judicial Magistrate/Special Court, Thiruvallur, Thiruvallur District and to enlarge the petitioner on bail pending disposal of the criminal appeal.

2. The petitioner, who was the sole accused in Spl.C.C.No.9 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 3 years RI and to pay a fine of Rs.20,000/-, 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.20,000/-, in default in payment of fine, to undergo further three months SI

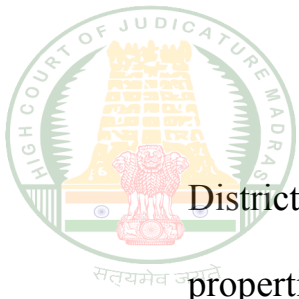
The substantive sentence of imprisonments are ordered to run concurrently. Challenging the above conviction and sentence, the petitioner has filed the above Criminal Appeal along with the instant miscellaneous petition, seeking suspension of sentence and bail.



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3. The case of the prosecution is that the petitioner, who was working as Tahsildar at Pallipattu Taluk, by abusing her official position, has received Rs.15,000/- as bribe from defacto complainant for issuance of the solvency certificate for Rs.30,000/- to be handed over to the Regional Transport Officer for change over the mini bus permit from one Balaji's name to defacto complainant's wife name.

4. Learned counsel for the petitioner submitted that the petitioner was working as a Tahsildar at Pallipattu Taluk, the defacto complainant approached the petitioner and made request to issue solvency, but the petitioner clearly informed him that she do not have any power to issue solvency certificate for other Taluk, since the property is situated beyond her jurisdiction. Since the petitioner is strict to subordinate employees in their work, the VAO, Revenue Inspector colluded together with the defacto complainant and staged a drama and on the date of alleged incident took place, the defacto complainant put the cash on the table in the Tahsildar Quarters at morning at 8.30 a.m., immediately the petitioner thrown out the aid cash, but the respondent police forced and threatened the petitioner to touch the said money and forced to put her hand on the currency. He further submitted that the trial court failed to consider the deposition of PW15-



District Revenue Officer, who very clearly stated in his deposition that the properties situated in Tirutani Taluk, Beerakuppam Village, Pallipattu Taluk Tahsildar do not have any power and the defacto complainant cannot apply for issuance of solvency certificate for the properties situated in Tirutani Taluk.

5. He further submitted that earlier, the petitioner approached this Court and filed Criminal Appeal along with suspension of sentence in CrI.M.P.No.10130 of 2023 in CrI.A.No.746 of 2023, when the above petition came up before this Court on 19.07.2023, this Court dismissed the suspension of sentence application and on 23.11.2023, the petitioner surrendered before the trial court and now she is in jail. Subsequently, the petitioner filed another application for suspension of sentence in CrI.M.P.No.18172 of 2023 in CrI.A.No.746 of 2023 and the same was dismissed on 15.12.2023 and this is the third bail application moved by the petitioner.

6. The learned counsel for the petitioner submitted that the petitioner is an innocent lady and a false case was foisted against her. 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.

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7. He further submits that the revision petitioner is suffering from knee pain and she could not move anywhere and always bed-ridden in the jail itself and she could not able to get better treatment in the jail and moreover, her both legs are severely damaged, due to short circuit of blood in the vessels, hence she required better treatment in the private hospital and she is now inside the jail for more than 90 days and she is an old lady aged about 67 years and she was already on bail during trial.

8. 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.

9. 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



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implication of the accused have also been touched upon at length. It has been assured on behalf of the appellant that she 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 she is released on bail, he will not misuse the liberty of bail and will cooperate in disposal of appeal.

10. 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.

11. Heard Ms. Karpagalakshmi, 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.

12.Considering the arguments advanced by the learned counsel for the petitioner as well as the learned Govt. Advocate (crl.side), this court is of

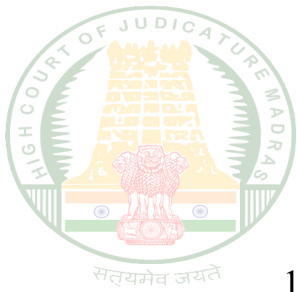


the view that the trial court has failed to appreciate the evidence on record and the judgment was passed without considering the entire materials placed before it and during trial, the appellant was also on bail and also considering the fact that she is an old lady aged about 67 years.

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13. 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.

14. 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, Puzhal, Chennai and the entire fine amount of Rs.40,000/- has been paid before the trial court vide receipt No.D9977653. 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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15. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner/appellant namely - D.Thilagam, D/o.Duraikannu 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 Chief Judicial Magistrate/Special Court, Thiruvallur, Thiruvallur District, 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.

16. 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.

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



21.01.2025

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To

1. The Chief Judicial Magistrate/Special Court,
Thiruvallur, Thiruvallur District
2. The Inspector of Police,
Vigilance and Anti-Corruption,
Kancheepuram, Kancheepuram District.
3. The Public Prosecutor, High Court,
Madras.
4. The Superintendent,
Central Prison, Puzhal, Chennai.

SHAMIM AHMED, J.

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