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CRL MP NO. 2652 of 2025
in CRL A NO. 182 OF 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-02-2025

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THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL MP NO. 2652 of 2025

IN

CRL A NO. 182 OF 2025

1.K.Gunasekaran
S/o.Kalyanasundaram,
Formerly Village Administrative Officer,
Gowthampalayam,
Virumandampalayam Incharge,
Kunnathur, Tiruppur District.

2.K.Sathish,
S/o.P.Kumar,
Door No.3/70, Pongalur, Devampalayam,
Pongalur Post, Palladam Taluk,
Tiruppur District.

.. Petitioners/A1 & A2

Vs

The State Rep By, The Inspector Of Police,
Vigilance And Anti Corruption Wing, Erode,
Tiruppur District. Cr.No.04/ac/2011/er.

.. Respondent/Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 430(1) of BNSS praying to suspend the sentence imposed on the petitioner by the judgment dated 06.02.2025 made in Special C.C.No.38 of 2014, on the file of the Chief Judicial Magistrate, Tiruppur and enlarge the petitioner on bail, pending disposal of the above appeal.



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For Petitioners:

Mr.P.Kannankumar

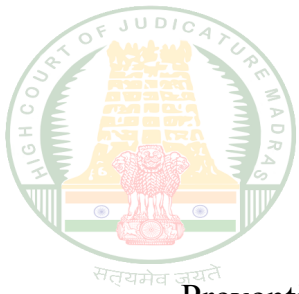
For Respondent(s):

Mr.S.Udaya Kumar
Government Advocate (Crl. Side)

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioners by the judgment dated 06.02.2025 passed in Spl.C.C.No.38 of 2014 by the learned Chief Judicial Magistrate, Tiruppur and grant bail to the petitioners, pending disposal of the above criminal appeal.

2. The petitioners/A1 & A2 in Spl.C.C.No.38 of 2014 were convicted by the Trial Court by the judgment dated 06.02.2025 for the offences under Sections 7 and 13(2) r/w 13(1)(d) r/w 109 of Prevention of Corruption Act. The first petitioner/A1 was sentenced to undergo 3 years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo one month simple imprisonment, for the offence under Section 7 of Prevention of Corruption Act and for the offence under Sections 13(2) r/w 13(1)(d) of



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Prevention of Corruption Act, sentenced to undergo 3 years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo one month simple imprisonment. The second petitioner/A2 was sentenced to undergo 3 years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo one month simple imprisonment for the offences under Sections 13(2) r/w 13(1)(d) r/w 109 of Prevention of Corruption Act. Aggrieved by the said conviction, the petitioners filed Crl.A.No.182 of 2025 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

3.During trial, on the side of the prosecution, PW1 to PW13 examined and Exs.1 to 26 marked and material objects M.O.1 to M.O.5 marked. On the side of the defence, DW1 examined and no documents marked. On conclusion of the trial, the Trial Court on the evidence of witnesses and the materials produced, convicted the petitioner as stated above.

4.The contention of the petitioners is that the first petitioner is 70 years old with various health ailments. The second petitioner is a driver said to be employed under the first petitioner. The prosecution has failed to prove that



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the second petitioner is the driver of the first petitioner. PW1 is the decoy witness in this case. The case projected against the petitioners is that the first petitioner demanded bribe amount for issuance of land ownership certificate, land enjoyment certificate and Adangal copy confirming PW1 was cultivating Horticulture and entitled for granting subsidy for drip irrigation and other benefits. In this case, admittedly, the bribe amount was not received or recovered from the first petitioner. It is the second petitioner from whom, the bribe amount was recovered and projected as though it was received on behalf of the first petitioner. Contradictory to the evidence of PW1 and PW3/accompanying witness, the trap laying officer had given a different version. In this case, the demand was not proved, which fact not considered by the trial Court. The second petitioner is not the driver employed by the first petitioner.

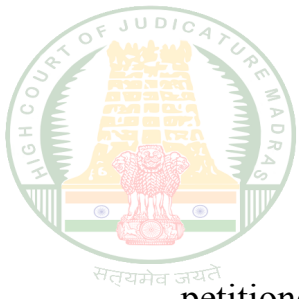
5. The further contention of the petitioners is that they have been falsely implicated, there are vital contradictions between PW1 and PW3 with regard to demand, acceptance and recovery. The sanction order of PW2 is vitiated. The petitioners explanation not recorded and there is violation of Rule 47 of the Vigilance Manual.



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6.The learned Government Advocate (Crl. Side) on the other hand submitted that PW1/de-facto complainant lodged a complaint stating that first petitioner is a Village Administrative Officer of Gowthampalayam village. The second petitioner is the driver employed by the first petitioner. On 22.07.2011, the first petitioner demanded bribe from the de-facto complainant for issuance of land ownership certificate, land enjoyment certificate and Adangal copy. The de-facto complainant was doing horticulture cultivation in his land cultivating lilly flowers. The Horticulture department gives subsidy for drip irrigation, for which, the above certificates are required. The first petitioner demanded bribe amount of Rs.2,500/- on 07.07.2011 and the second demand was on 19.07.2011 and finally the trap was laid on 22.07.2011 and the first petitioner through the second petitioner received amount and caught red-handed. The phenolphthalein test confirmed the same. The trial Court on the evidence of witnesses PW1 to PW13 and Exs.P1 to P26 and M.O.1 to M.O.5 found that the prosecution has proved the case. Though defence witness DW1 was examined, he was found to be a interested witness supporting the accused. The trial Court by a detailed judgment had rightly convicted the petitioners. He fairly submitted that the trial Court suspended the sentence of the



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petitioners till 16.03.2025. However, he opposed for granting bail to the petitioners.

7.Considering the fact that petitioners paid the fine amount, the sentence of imprisonment imposed on the petitioners has been suspended by the trial Court in Crl.M.P.No.350 of 2025 till 06.03.2025 and the fact that there are arguable points involved in this appeal and it would take some time for the appeal to be taken up for final hearing, this Court is inclined to suspend the sentence imposed on the petitioners.

8.Accordingly, the substantive sentence of Imprisonment imposed on the petitioners is suspended till the disposal of the above appeal and they are ordered to be enlarged on bail, on condition that they shall execute a bond each for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

9.Further, the petitioners/A1 & A2 shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the criminal appeal and if they are not able to appear before the



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Trial Court on that day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of their absence as directed by the Trial Court.

10. Accordingly, this Criminal Miscellaneous Petition is ordered.

18-02-2025
(2/2)

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To

1. The Inspector of Police,
Vigilance And Anti Corruption Wing, Erode,
Tiruppur District.
2. The Chief Judicial Magistrate,
Tiruppur.
3. The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.

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