



CRL MP NO. 4495 OF 2025
in CRL A No. 265 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-03-2025

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL MP NO. 4495 OF 2025

in

CRL A No. 265 of 2025

T.Thangaraj
S/o.Thulasi, Formerly Sub Inspector
Of Police (traffic), Kanchipuram,
Residing At No.16, Bakath Singh
Street, Kamatchi Colony,
Kancheepuram.

Petitioner/Accused

Vs

The State Rep By
The Deputy Superintendent Of Police,
Vigilance And Anti Corruption,
Kanchipuram.
(Crime No.21/AC/09KM)

Respondent/Complainant

PRAYER: Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, praying to suspend the sentence and enlarge the petitioner on bail connected in Spl.S.C.No.36 of 2024 in Old Spl.S.C.No.03 of 2011 on the file of the learned Special Judge cum Chief Judicial Magistrate at Kancheepuram.



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For Petitioner : Mr.I.Kabilan
For Respondent: Mr.S.Udaya Kumar
Government Advocate (Crl. Side)

ORDER

The petitioner/Accused in Spl.S.C.No.36 of 2024 in Old Spl.S.C.No.03 of 2011 was convicted by the trial Court by the judgment dated 21.02.2025 and sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo three months simple imprisonment, for offence under Section 7 of the Prevention of Corruption Act, 1988 and to undergo three years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo three months simple imprisonment, for offence under Sections 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, against which, the petitioner preferred the above appeal along with the instant miscellaneous petition seeking suspension of sentence and bail.



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2.The case of the prosecution is that on 25.11.2009, while the de-facto complainant/PW2 was riding his two wheeler near Moongil Mandapam, Kancheepuram, the petitioner, who is the Sub Inspector of Police, Traffic, Kancheepuram, had stopped the vehicle and insisted the de-facto complainant to show the driving license and vehicle documents. The de-facto complainant produced all the documents and thereafter his employee I.D. Card was retained by the petitioner and he demanded illegal gratification of Rs.2,000/-. The de-facto complainant not willing to give bribe amount, hence, lodged a complaint on 26.11.2009. The Trap Laying Officer/PW10 enlisted the service of PW3 and another Government witness and pre-trap procedures explained to them. Thereafter, trap laid, petitioner caught red-handed. The petitioner on seeing PW10 thrown away the bribe amount, attempted to escape and later apprehended. The bribe amount recovered near the Kamakshi Amman Colony, Pillaiyar Kulam. The Phenolphthalein test turned positive.



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Thereafter, PW10, took up investigation, recorded the statement of witnesses and after collecting materials filed charge sheet.

3. During trial, on the side of the prosecution, PW1 to PW11 examined and Exs.P1 to P26 marked and material objects M.O.1 to M.O.6 produced. On the side of the defence, DW1 to DW6 examined and Exs.D1 to D8 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 primary contention of the petitioner is that petitioner has been falsely implicated. There is nothing to show that there was prior demand and on 25.11.2009 during the relevant point of time, the petitioner was present in the office, which is proved by Ex.P14/General Diary, which was marked through PW8. PW8 confirms petitioner's presence in the office. Further, on 25.11.2009 apart from the petitioner, two other police personnels were



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deployed for duty. None of them examined as witness in this case. Hence, the demand not proved. Further, with regard to the recovery of the trap amount, PW2 gives a version that amount was recovered from the Safari shirt pocket of the petitioner. PW3-accompanying witness states that it is from the petitioner's shirt. PW10 evidence is that amount was recovered from the petrol Tank cover. Further, in this case recovery proceedings said to have held in the Infant Jesus Matriculation School, but DW4-School Principal and Ex.D4 confirms that there was no such recovery proceedings conducted in the school premises. The police in a stage manner foisted the case against the petitioner and the petitioner has been falsely implicated in this case. The trial not considered these aspects, on the other hand gives an explanation on its own that general diary is normally written later and there is a correction but it is not the case of PW8. In such circumstances, giving such explanation and convicting the petitioner is not proper.



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5. The learned Government Advocate (Crl. Side) submitted that in this case, PW2 is the decoy witness from whom, the petitioner demanded bribe amount of Rs.2,000/-. During road check, the de-facto complainant was carrying all the valid documents for the vehicle and the driving license but the petitioner retained the de-facto complainant's employee I.D. Card, without which he cannot enter his office. The de-facto complainant lodged a complaint, thereafter, PW10/TLO registered F.I.R, enlisted the Government witnesses PW3 and another, conducted pre-trap proceedings and later petitioner was caught while receiving tainted amount. The petitioner attempted to escape and later apprehended. Phenolphthalein test proved positive on the petitioner's hand. There is some discrepancies, which would only prove that the evidence of the witnesses are natural and the petitioner is unable to give proper explanation for receipt of Rs.2,000/- being the bribe amount. He fairly submitted that petitioner paid the fine amount and his sentence has been suspended by the trial Court till 21.03.2025.



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6.Considering the submissions made and the fact that the petitioner has raised substantial grounds in the above appeal, which requires consideration, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

7.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.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

8.Further, the petitioner shall appear before the Trial Court once in three months at 10.30 a.m. on the first working day of the month, until the disposal of the appeal and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317



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Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.

9. Accordingly, this Criminal Miscellaneous Petition is ordered.

11.03.2025
(2/2)

rsi

Note: Issue order copy on 12.03.2025.

To

1. The Special Judge cum Chief Judicial Magistrate,
Kancheepuram.
2. The Deputy Superintendent Of Police,
Vigilance And Anti Corruption, Kanchipuram.
3. The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.
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