



CRL MP NO.6609 OF 2025
in CRL A No.338 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-04-2025

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL MP NO. 6609 OF 2025

in

CRL A No. 338 of 2025

C.Kalaiselvan

S/o. M.Chinnaraj, Aadhi Impex,
No.44/f1, Jambuli New Colony,
Dhamodharan Street, Kodungaiyur,
Chennai - 118.

Petitioner/Accused

Vs

The State Of Tamil Nadu
Rep.By, The Inspector Of Police
Special Investigation Cell, Vigilance
And Anti Corruption, Chennai.
Cr.No.9/2013.

Respondent(s)

PRAYER: Criminal Miscellaneous Petition filed under Section 430(2) of BNSS, praying to suspend the sentence imposed on the petitioner in CC.No.5 of 2015 on the file of Special court for Prevention of Corruptions Act, Chennai dated 28.03.2025 and enlarge the petitioner on bail pending disposal of the above appeal.



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For Petitioner(s): Mr.B.Kumarasamy

For Respondent(s): Mr.S.Udaya Kumar
Government Advocate (Crl. Side)

ORDER

The petitioner/Accused in C.C.No.5 of 2015 was convicted by the trial Court by the judgment dated 28.03.2025 for offences under Sections 7 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 (hereinafter 'P.C. Act') and sentenced to undergo four years rigorous imprisonment and to pay a fine of Rs.50,000/-, in default, to undergo three months simple imprisonment, for the offence under Section 7 of P.C. Act and to undergo five years rigorous imprisonment and to pay a fine of Rs.50,000/-, in default, to undergo six months simple imprisonment, for the offences under Sections 13(2) r/w 13 (1) (d) of P.C. 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 contention of the petitioner is, the case projected is that the petitioner, who is an Assistant Executive Engineer, Tamil Nadu Electricity Board along with one Manoharan, Commercial Inspector made a demand on 03.07.2013. Thereafter, followed the demand on 04.07.2013. The petitioner along with said Manoharan visited the house of PW2/de-facto complainant and again reiterated their demand. On 05.07.2013, the de-facto complainant/PW2 lodged a complaint to PW16/Trap Laying Officer (TLO). Thereafter, trap proceedings laid against the petitioner. The learned counsel for petitioner submits that PW2 lodged a complaint against the petitioner and Manoharan, which is admitted by PW16 as well as PW2 but no reason has been given as to why the said Manoharan arrayed neither as witness nor as accused. PW16 admits that he had not sought any permission from the higher officials to delete the name of Manoharan.



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3. The further contention of the learned counsel for petitioner is that the petitioner was forcibly made to handle the bribe amount. The petitioner not demanded any amount or received any bribe amount from PW2. Further PW2 states that the petitioner through mobile phone contacted PW2 and again reiterated the demand. PW2 as well as the investigating officer/PW18 admit that there were telephonic conversations. Since the call details particulars could not be collected from the service provider and there was no 65-B certificate, the call details were not further investigated. Learned counsel further submitted that there is no chain of demand as projected by the prosecution. In a trap case, demand, acceptance and recovery to be proved. In this case, the demand is doubtful and the acceptance is also not admitted. According to the petitioner, the amount is thrust on the petitioner's pocket, thereafter he was forced to handle it, which he gave explanation but the trial Court failed to consider the same.



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4.The learned Government Advocate (Crl. Side) on the other hand submitted that in this case, PW2 is the complainant, who lodged a complaint stating that he approached the petitioner to obtain 4 electricity service connections to his residence. At that time, the petitioner initially demanded Rs.7,500/- for each connection, which was reduced to Rs.5,000/-, in total, Rs.20,000/- was demanded to the de-facto complainant not once but on three occasions. The de-facto complainant not willing to pay the amount and lodged a complaint to PW16/TLO, who registered the F.I.R., conducted pre-trap proceedings, thereafter, with PW2/decoy and PW3/accompanying witness, visited the office of the petitioner on 06.07.2013. At that time, the demand was reiterated by the petitioner, bribe amount handed over to the petitioner, who accounted the same using both his hands and kept in the front shirt pocket. After receiving signal, the PW16/TLO entered the office, questioned the petitioner, recovered tainted amount, which was proved by phenolphthalein test. Thereafter, the investigation took over by PW18, who



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recorded statement of witnesses, collected documents, thereafter filed charge sheet. Before the trial Court, PW1 to PW18 examined, Exs.P1 to P30 marked and M.O.1 to M.O.6 produced. The trial Court, on the evidence of PW2, PW3 and PW16 finding that the demand, acceptance and recovery of bribe amount proved, had rightly convicted the petitioner.

5.Considering the submissions made and on perusal of the material it is seen that in this case, F.I.R. lodged against the petitioner and one Manoharan, Commercial Inspector. For what reason the Commercial Inspector left out, no reason has been given. PW18/Investigating Officer admits that deletion of Manoharan's name is without any approval from the superior and there is no reason given in the charge sheet for dropping the name of Manoharan. Further, in this case the demand continued through mobile phone and mobile details were collected and produced. The chain of demand is doubtful, which needs re-consideration. Further, it is a statutory appeal and the appeal is not



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likely to be taken up in the near future, hence, this Court is inclined to grant the relief of suspension of sentence to the petitioner.

6. 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.

7. 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 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.



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8. Accordingly, this Criminal Miscellaneous Petition is ordered.

03.04.2025

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Note: Issue order copy on 03.04.2025.

To

1. The Special Judge,
Special Court for the cases under Prevention of Corruption Act,
Chennai.
2. The Inspector Of Police
Special Investigation Cell,
Vigilance And Anti Corruption,
Chennai.
3. The Superintendent,
Central Prison, Puzhal-I
Chennai.
4. The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.
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