IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-12-2025

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL MP NO. 23742 OF 2025
IN
CRL A No. 1893 of 2025

A.M.Ashik Arafath
S/o.Mohamed Farook,
No.138, Venkatasamy Road West,
R.S.Puram, Coimbatore – 641 002.

Petitioner/A6

Vs

State represented by
The Superintendent of Police
CBI/SCB/Chennai,
R.C.No.8(S)/2010.

Respondent(s)

PRAYER: Criminal Miscellaneous Petition filed under Section 430(1) of BNSS, 2023 praying to suspend the sentence imposed in C.C.No.28 of 2012 dated 21.11.2025 by the learned XI Additional Special Judge for CBI Cases, (Relating to Banks and Financial Institutions), Chennai and enlarge the petitioner/Appellant/A-6 on bail, pending disposal of the above Criminal

Appeal.

For Petitioner	:	Mr.A.V.Somasundaram, Senior Counsel for M/s.G.Ramadhevi
For Respondent	:	Mr.K.Srinivasan Special Public Prosecutor for CBI cases

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed in C.C.No.28 of 2012 dated 21.11.2025 by the learned XI Additional Special Judge for CBI Cases, (Relating to Banks and Financial Institutions), Chennai and enlarge the petitioner/Appellant/A-6 on bail, pending disposal of the above Criminal Appeal.

2. The petitioner/A6 in C.C.No.28 of 2012 was convicted by the Trial Court by the judgment dated 21.11.2025 and sentenced to undergo one year rigorous imprisonment each under Sections 120-B r/w. 420, 468, 471 of IPC and Sections 13(2) r/w 13(1)(d) of PC Act, 1988 and under Sections 420, 468, 471 of IPC (4x1=4 years) along with fine of Rs.5,000/- on each sections (Total fine

amount: 4x5,000= Rs.20,000/-). In default, to undergo 2 months of simple imprisonment on each section (4 x 2 = 8 months). The sentence of rigorous imprisonment imposed under the above sections will run concurrently and the sentence of default will run consecutively. Aggrieved by the said conviction, the petitioner/A6 filed Crl.A.No.1893 of 2025 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

3.The brief facts of the case is that M/s. Afrina Steel Rolling Mills (A-1) and M/s Basheer & Co are partnership firms run by A-3 Naseer Ahmed and his wife Fathima Rizwana/A4. Paramasivam was one of the partners at the time of availing the credit facilities. A-2 company was enjoying credit facilities of Rs.75 Lakhs in OCC Limit and Term Loan of Rs.20 Lakhs with Canara bank, Kilpauk branch, Chennai. Further, a fresh Bank Guaranty of Rs.30 Lakhs was sanctioned for purchase of raw materials from National Small Industries Corporation. Further, Canara Bank, Kilpauk Branch sanctioned fresh loans to A-1-M/s. Afrina Steel Rolling Mills to a tune of Rs.100 Lakhs in OCC limit and Term loan of Rs.92 Lakhs, which was further enhanced to Rs. 130 Lakhs in OCC and a fresh Bank Guaranty limit of Rs. 50 Lakhs sanctioned. It is alleged that M/s. Basheer & Co., mortgaged a property at Plot No.49, Survey No.315/7A at the time of availing of Credit facilities. However, it was found later that there was no factory building existing in the land of said survey number. Nazeer Ahamed/A3, with an intention to cheat Canara Bank, showed the building which was existing in Survey Nos.318 & 315/7B. The said building was already mortgaged to Federal Bank for availing credit facilities on behalf of M/s. Amba Wires. A3 and A4 in connivance with the petitioner/A6 submitted forged/fabricated quotation/purchase orders. The accused persons in furtherance to the criminal conspiracy, committed criminal breach of trust by availing loans and bank guarantees from Canara Bank, Kilpauk branch, Chennai to the tune of Rs.405.47 Lakhs which were sanctioned by accused public servant by abusing their official position, in the strength of hypothecation of non-existing stock and plant machinery as well as collateral security of lands which could not be disposed off. The accused private persons did not repay the loan amounts and caused wrongful loss to Canara Bank. After completion of the investigation, on

30.06.2012, charge sheet filed against M/s.Afrina Steel Rolling Mills (A-1), M/s Basheer & Co (A-2), M.NazeerAhamed (A-3), Fathima Rizwana(A-4), T. Rajendran (A-5), Ashik Arafath (A-6)/petitioner and K.S.Ashok (A-7) for offence under Sections 120 r/w 420, 468,471 IPC and Section 13(2) r/w 13(1)(d) of PC Act on the file of learned XI Additional District Judge for CBI cases, the trial was conducted in C.C.No.28 of 2012. After completion of the trial, the Trial Court convicted the petitioner and others and sentenced him to undergo as above.

4.The learned counsel for the petitioner submitted that in this case originally F.I.R. registered against two partnership firms/A1 & A2, its Partners/A3 & A4, Chief Managers of Canara Bank - one Paramasivam, T.Rajendran/A5, P.Ganapathy and Suriyanarayanan. During investigation, Paramasivam died and his name was deleted. As regards Ganapathy, he was examined as PW20. As regards Suriyanarayanan, though not named in the F.I.R., sanction for prosecution under Section 19 of P.C. Act, not granted. Hence, in a pick and choose manner, charge sheet filed listing 7 accused. During trial, A5/Chief Manager of Canara Bank passed away and A7-Ashok, Valuer of the property passed away. Hence, charges as against A5 and A7 got abated. As regards A4, wife of A3, she was acquitted. The petitioner/A6 is the own sister's son of A3.

5.He further submitted that at the time of occurrence, the petitioner just completed his MBA degree and was searching for a job. He was residing with A3 as joint family and petitioner's mother is own sister of A3. Since he was searching for a job, he used to help his uncle/A3 and on the request of his uncle he attended the office of A3, which acquaintance has been taken advantage and now in the name of petitioner, a company is said to have been opened and there were some transactions. The petitioner merely signed on the request of his uncle/A3 and nothing more. The trial Court also considered the same and had given a lesser sentence of one year rigorous imprisonment.

6.He further submitted that the petitioner paid the fine amount and the trial Court already suspended the sentence of the petitioner till 19.12.2025 in Crl.M.P.No.1834 of 2025. He further submitted that this Court already suspended the sentence of the co-accused/A1 to A3 and granted bail on 09.12.2025 in Crl.M.P.No.22813 of 2025. Hence, he prayed for granting suspension of sentence to the petitioner.

7.The learned Special Public Prosecutor submitted that the petitioner is own sister's son of A3. The petitioner opened an account in the name of M/s.Steel India as its Proprietor. Ex.P40 is the account opening form wherein the petitioner signed and affixed his photo. From this account opening form, the petitioner had given false statement as if he is the Proprietor of M/s.Steel India and transacted huge amount under the 33 cheques, which were marked as Ex.P41 series. That apart, petitioner also withdrew huge amount by issuing self cheques. The petitioner as an unemployed youth involved in this illegal money transactions. He further submitted that the trial Court considering the evidence of handwriting expert and his report found that the petitioner's signatures available in Ex.P41 series are tallied with his admitted signatures/Exs.P52 to P54 and specimen signatures/Ex.P89.

8.He further submitted that during trial, on the side of the prosecution, PW1 to PW28 examined and Exs.P1 to P96 marked. On the side of the defence, DW1 to DW4 examined and Exs.D1 to D17 marked. On conclusion of the trial, the Trial Court on the evidence of witnesses and the materials produced, had rightly convicted the petitioner. He fairly submitted that the trial Court already suspended the sentence of the petitioner till 19.12.2025. However, he opposed for granting suspension of sentence to the petitioner.

9.Considering the fact that petitioner paid the fine amount, the sentence of imprisonment imposed on the petitioner has been suspended by the trial Court in Crl.M.P.No.1834 of 2025 till 19.12.2025 and this Court already suspended the sentence of the co-accused/A1 to A3 and also 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 petitioner.

10.Accordingly, the substantive sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the above 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.

11.Further, the petitioner/A6 shall appear before the Trial Court once in three months, on the first working day of a month at 10.30 a.m., until the disposal of the criminal 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.

12. Accordingly, this Criminal Miscellaneous Petition is ordered.

10.12.2025
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To

1.The XI Additional and Special Judge for CBI Cases,
related to Banks and Financial Institutions at Chennai.

2.The Superintendent of Police,
CBI/SCB/Chennai.

3.The Public Prosecutor
High Court, Madras.

M. NIRMAL KUMAR, J.

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