IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-01-2026

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL MP No. 45 of 2026
IN CRL A NO. 2 OF 2026

1. Ketan Amritlal Shah
2. Mukesh A.Shah ... Petitioner(s)

Vs

State by the Deputy Superintendent of Police,
SPE, CBI/ACB Chennai. ... Respondent(s)

Prayer: This Criminal Miscellaneous Petition is filed under Section 430(1) of B.N.S.S. to suspend the sentence of imprisonment imposed on the petitioner in C.C.No.25 of 2004 on the file of the learned XI Additional Special Judge (CBI Cases relating to Banks and Financial institutions) Chennai, vide judgment dated 30.12.2025 and enlarge the petitioners on bail pending disposal of the Criminal Appeal.

For Petitioner(s): Mr. A. Nagarajan

For Respondent(s): Mr. K.Srinivasan
Special Public Prosecutor
For CBI Cases

ORDER

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioners by the judgment dated 30.12.2025 in C.C.No.25 of 2004 on the file of the learned XI Additional Special Judge, Special Court for CBI cases relating to Banks & Financial Institutions, Chennai and release the petitioners on bail pending disposal of the above criminal appeal.

2. The petitioners herein are arrayed as A-4 and A-5 in C.C.No.25 of 2004. The Trial Court by the judgment dated 30.12.2025 convicted A4 to A7 for the offences under Sections 120-B r/w.420 IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 ('PC Act') and u/s.420 IPC and sentenced each to undergo five years rigorous imprisonment on each section under Sections 120-B r/w.420 IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 ('PC Act') and u/s.420 IPC (2 x 5=10 years) and to pay a fine of Rs.2,00,000/-, on each section (2 x 2,00,000= 4,00,000). In default, each accused has to undergo one year simple imprisonment on each section (2 x 1=2 years).

3. A9 company represented by A7 was convicted under Sections 120-B r/w.420 IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 ('PC Act') and u/s.420 IPC and imposed fine of Rs.2,00,000/- for each section under Sections 120-B r/w.420 IPC and Section 13(2) r/w 13(1)(d) of Prevention of Corruption Act, 1988 ('PC Act') and u/s.420 IPC (Total amount 2 x 2,00,000 = Rs.4,00,000) and ordered A4 to A7 to pay the fine amount of

Rs.4,00,000/- in equal proportion (each Rs.1,00,000). In default, A4 to A7 shall undergo one year simple imprisonment on each section (2 x 1 = 2 years).

4. Aggrieved by the said conviction, the petitioner filed Crl.A.No.3 of 2026 before this Court along with the instant miscellaneous petition seeking suspension of sentence and bail.

5. The contention of the petitioner is that A-4 opened a current account in the name of A-9 and submitted a loan application on 20.10.1999 and another loan application on 26.04.2000. The loans were obtained for their diamond business and to facilitate Foreign Usance Bill Discounted and its enhancement. The loans were sanctioned by the Chief Manager and Senior Manager of the Andhra Bank/defacto complainant bank. After sanction, it was forwarded to the Zonal Office and Head Office.

6. The petitioner availed loan through bank officials and they have not conducted pre-sanction and post-sanction inspections. They did not obtain any private and confidential report from other banks on their credit history and also failed to verify the specific approval and approval list of Export Credit Guarantee Corporation of India. In this process, the loan proceeds misused,

thereby causing a wrongful loss of of Rs.5,75,67,108. Further, A-4 had obtained inflated valuation report from A-8.

7. The learned counsel for the petitioner would submit that in this case, the substantive charge under Section 420 IPC was not framed, though it was pointed out, the Public Prosecutor had filed a petition to alter the charges, which was later withdrawn for reasons best known to him. The Trial Court gives an explanation that it was only a typographical error committed by the stenographer and then Presiding Officer had not corrected the mistake. However, when the Public Prosecutor filed a petition for alteration of charges and later withdraw the same, then it had come to the knowledge of the present Presiding Officer, thereafter the charges ought to have been altered. The Apex Court had held that it is not necessary to file a petition for alteration of charges and the Court, on its own, can alter the charge. In such circumstances, the Trial Court ought to have corrected the mistake, altered the charge and questioned the petitioners. Then accused could have been put to notice and answered the charges accordingly. In this case, it is not done so.

8. Hence, the substantial right of the petitioners denied and great prejudice caused. He further submitted that in this case, the petitioners charged along with public servants, namely, bank officials A-1, A-2 and A-3. A-2 passed

away. A-1 and A-3 faced trial and acquitted from all charges. In such circumstances, convicting the petitioners under Prevention of Corruption Act will not arise. But, the Trial Court convicted the petitioners under Prevention of Corruption Act.

9. He would also submit that Trial Court greatly prejudged by referring to the petitioners earlier taken loan from several public sector banks and those loans defaulted, since the earlier loans not disclosed in the application for the present loan. To prove this fact, Bank Officials examined and Ex.Ps.112, 113 and 114 marked. These loan details sent to the Investigating Officer and it is hit by Section 162 of Cr.P.C.

10. Despite specific questions put and objections recorded. Tt that time of the recording the evidence and it is recorded that documents marked subject to its admissibility and the same can be decided later, no such finding given in the judgment. Hence Ex.P.s112, 113, and 114 cannot be taken in evidence and cannot be acted upon.

11. He further submitted that there is no charge framed for suppressing the earlier bank transaction. He further submitted that all dues to the other bank

loans settled by way of one time settlement and as on date there is no dues. As regards the present transaction with Andhra Bank, the same has also been settled by way of one time settlement even as early as 2017. D.W.1 examined in this regard and Ex.D1 and Ex.D14 marked. The Trial Court, though took note of the same but not gone beyond and brushed aside stating one time settlement will not absolve the criminality.

12. No doubt, criminality cannot be wiped out completely, however, imposing a sentence of five years' imprisonment, is neither proportionate nor justified, particularly considering the age and health condition of the petitioners. In fact, the Trial Court record that one of the accused namely A-7 was brought in a wheelchair, who is aged about 85 years. Despite this, for reasons best known to the Trial Court, a sentence of five years' imprisonment was imposed.

13. The undisputed fact is that A-9 is on going business enterprises and the petitioners are its directors and have been carrying on business. It is a known fact that during the relevant point, there was a downturn in the diamond business and hence business operations suffered losses. This commercial failure now termed as a criminal offence. The petitioners pray for bail and it is further submitted that the fine amount already been paid.

14. The learned Special Public Prosecutor appearing for the respondent had filed a counter and submitted that the defacto complainant had lodged a complaint stating that A-1, the Chief Manager of Andhra Bank, A-2, the Senior Manager of the Branch, and A-3, the Manager of Andhra Bank, Banjara Hills Branch, Hyderabad, . A3 was known to A4 and was closely associated with A9, D.N.International Ltd. It was alleged that A3 influenced A1 and A2, due to which, the loan application of A9 submitted by A4 was given undue importance and that A1 and A2 were influenced to grant loan without proper scrutiny.

15. During investigation it was found that A9 company was not carrying on business and had projected as if it was a running concern. It was revealed that the company had taken two small rooms in Mumbai and falsely projected a business turnover of Crores. Subsequently, it was found that projections were false. It was further alleged that the valuation of the property offered as security was inflated and the same was confirmed by a CPWD official/engineers. It was also alleged that the bank had exceeded the norms while granting loans to the diamond business, though such norms were not uniformly followed, resulting in irregular sanction of the loan. Main features of charge sheet are as follows:-

a) A-1 and A-2 (A-2 died and charge abated) were Chief and Senior Managers of Complainant Bank namely Andhra Bank, Mowbrays Road

Branch during the period from 1999 to 2000. A3 was Officer of Andhra Bank, Ameerpet Branch during this period. A-9 M/s.D.N.International Ltd is the Borrowing Company. A-4 to A-7 were its Directors. A-8 (died and charge abated) was Panel Valuer of the Complainant Bank based at Mumbai. A - 10 was Proprietor of M/s Vinay Enterprises and A-11 was Director of M/s Araki Limited and M/s Kendex Ltd based at Hongkong, China.

b) All above Accused entered in to criminal conspiracy during the period from October 1999 to 2000 at Chennai, Mumbai and Hyderabad to cheat the Complainant Bank in the matter of availing Foreign Purchase Bill and Packing Credit facilities from the Complainant Bank and cheated, causing a financial loss of Rs.5.75 Crores.

c) A - 4 to A - 7 the Directors of the Borrowing Company M/s DN International Ltd had suppressed the following pre-existing various facilities (over dues/NPA) availed by them in the name of their other Companies/Firms/Proprietary concerns.
i) A-5 & A-6 as Partners of M/s Devraj Nansee & Co availed PC and BPF facilities from Bank of Baroda, International Business Branch during 1992-93 and had an outstanding of Rs.9.12 Crores when they approached the Complainant Bank. A-4, A-5 and as Partners of M/s Rashmikant & Co availed PC and BPF facilities from same Bank of Baroda, International Business Branch during 1998 and had an outstanding of Rs.6.38 Crores. A-4 and A - 7 as Partners of M/s Granite India availed PC and BPF facilities from the same Bank of Baroda, International Business Branch during 1991 to 99 and had an outstanding of Rs.5.20 Crores. Total outstanding of these Accused with this Branch at the relevant period was at Rs.20.70 Crores.
ii) As such, A-4 to A - 7 as Partners of M/s Rose Cut Diamond ha availed Credit facilities from Union Bank of India, Oversea Branch, Chennai during 1998 to 99 and had an outstanding of Rs.7.32 Crores which led to Civil,

Criminal and DRT proceedings wherein A-11's M/s Araki Ltd & M/s Kendex Ltd had involved as Foreign Buyers.

iii) As such, A-6 and A-7 as Partners of M/s D.N.Exports availed PC and BPF facilities from Bank of India, Overseas Branch, Chennal and had an outstanding of Rs.6.43 Crores which led to DRT proceedings wherein Room No.302-D of Flat (situated at Queens Diamond, Mumbai) was given as collateral security. Two rooms 10 bearing numbers 302-C and 302-F are in very same Flat and given as Collateral security in the present case by playing fraud.

iv) As such, A-4 to A-7 as Partners of M/s GI International availed PC and BPF facilities from IOB, Mandvi Branch and had an outstanding of Rs.11.31 Crores which led to DRT proceedings wherein Room No.302-A and 302-B of Flat (situated at Queens Diamond, Mumbai) was given as collateral security. Two rooms bearing numbers 302-C and 302-F of very same Flat have been given as Collateral security in the present case by playing fraud. Here also, A-11's M/s Araki Ltd & M/s Kendex (Hongkong) Ltd had involved as foreign Buyers.

d) Suppressing above pre-existing loan liabilities and adopting same 'modus operandi', A-4 had approached the Complainant Bank, headed by A-1 and deceased A-2, submitted his first loan request letter on 20.10.1999 even without opening the Account seeking Packing Credit (PC) for Rs.1 Crore and Foreign Bill Purchase (FBF) for Rs.2 Crores. Further, immediate facility also was sought for Rs.50 Lakhs and Rs.1 Crore respectively under the head PC and FBP facilities. With this, they submitted false foreign purchase orders by showing the M/s.Araki

Rs.1 Crore on 30.10.1999 Itself. It was sanctioned fraudulently within ten days from the date of loan application without any pre-sanction inspection at the Factory which was situated at Mumbai.

e) In the same way, A-9 company was Sanctioned with Rs.3 Crores of Foreign Usance Bill Discounted Facility (FUBD) and Rs.2 Crores of PC Facility, for which, they had shown the A-11's Companies M/s Araki & M/s Kendex as foreign buyers and A-10's M/s Vinay Enterprises as Raw material suppliers. A-10, A-11, A-4 to A-7 are from same family and fraudulently produced the purchase and supply orders by having hand in glove with each other. Huge payments were made from the Loan proceeds to these Companies based on the fabricated purchase & supply orders. Initially some bills were realized and thereafter as soon as the entire PC facility was released by the Bank, they had stopped the realization which became outstanding, NPA and loss to the Bank.

Hence, he prayed for dismissal of the petition seeking suspension of sentence.

16. During trial, on the side of the prosecution, P.Ws.1 to 32 were examined and Exs.P 1 to P.274 were marked. On the side of the defence, DW.1 was examined and Exs.D1 to D.22 were marked.

17. Though the petitioner had repaid the loan, but, it was only one time settlement and that too it was in the year 2017, after the loan was sanctioned and the amount become an NPA. Considering all these aspects, the Trial Court had rightly convicted the petitioners.

18. Considering the facts and circumstances and also taking note of the age of the petitioners and their age-related health ailments, and further

considering that there are arguable points involved in this appeal and that it would take some time for the appeal to be taken up for final hearing along with the undertaking given by the learned counsel for the petitioner that as and when the appeal is taken up for final hearing, they will be ready to proceed with the appeal, this Court is inclined to suspend the sentence imposed on the petitioner.

19. Accordingly, the substantive sentence of imprisonment imposed on the petitioners is suspended till the disposal of the above appeal and the petitioners are ordered to be enlarged on bail, on condition that they 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.

20. Accordingly, this Criminal Miscellaneous Petition is ordered.

09-01-2026

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Mrp

Note : Issue order copy today.

To

1. The XI Additional Special Judge,
Special Court for CBI cases relating to Banks & Financial Institutions,
Chennai.

2.The Public Prosecutor,
High Court, Madras.

3. The Superintendent of Police,
SPE, CBI, ACB, Chennai.
Shastri Bhavan, Chennai-600 006.

4. The Superintendent,
Central Prison -I, Puzhal,
Chennai

M.NIRMAL KUMAR J.

mrp

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