

THURSDAY, THE 15TH DAY OF OCTOBER 2026

Crl.M.Appl 1/2026 IN CRL.A No. 1239 of 2026

TOMIN J THACHANKARY

VS

STATE OF KERALA

ADVS FOR APPELLANT/S:

SRI.B.RAMAN PILLAI (SR.),
SRI.S.RAJEEV, SHRI.SARATH K.P.,
SHRI.ANILKUMAR C.R., SHRI.K.S.KIRAN KRISHNAN,
SMT.DIPA V., SHRI.AKASH CHERIAN THOMAS,
SHRI.T.P.ARAVIND, SHRI.AZAD SUNIL, SMT.AKSHARA S.,
SMT.NIVEDITA RAJEEV, SHRI.EBEE ANTONY, SRI.M.S.ANEER

A.BADHARUDEEN, J.

Crl.M.A.No.1 of 2026
in
Crl.A. No.1239 of 2026

Dated, this the 15th day of October, 2026

ORDER

This is an application filed by the petitioner/appellant, who is the accused in C.C.No.3/2020 on the files of the Enquiry Commissioner and Special Judge, Kottayam with prayer to suspend the sentence and to grant bail to him, where he was convicted and sentenced for the offence punishable under Section 13(2) r/w.13(1)(e) of the Prevention of Corruption Act, 1988 (hereinafter referred to as 'PC Act' for short).

2. Heard the learned counsel for the petitioner/appellant and the learned Special Public Prosecutor appearing for the State of Keralam on 24.09.2026 in detail. Perused the verdict impugned and the written

objection filed by the State of Keralam while opposing suspension of sentence.

3. Here, as per the judgment impugned, the learned Enquiry Commissioner and Special Judge, Kottayam, convicted the petitioner/appellant, who is the sole accused in C.C.No.3/2020 pending before the said court, and found him guilty of the offence punishable under Section 13(2) r/w. Section 13(1)(e) of the PC Act. Accordingly, he was sentenced as under:

"In the result, the convict is sentenced to:

1. Rigorous imprisonment for 4 (Four) years and to pay a fine of Rs.30,84,892/- (Thirty Lakhs Eighty Four Thousand Eight Hundred and Ninety Two) for the offence punishable under S.13(2) r/w. 13(1)(e) of the Prevention of Corruption Act, 1988; in default of payment of fine, he shall further undergo rigorous imprisonment for 2 (Two) months."

4. Sri.B.Raman Pillai, the learned Senior Counsel appearing for the petitioner/appellant, zealously argued that

the findings of the learned Special Judge are erroneous and the evidence let in by the prosecution is quite insufficient to find commission of the offence found to be committed by the Special Judge. According to the learned Senior Counsel for the petitioner/appellant, since the sentence imposed is only four years, taking note of the said aspect, the sentence may be suspended and bail may be granted to the petitioner/appellant, on imposing appropriate conditions.

5. The learned Special Public Prosecutor strongly opposed grant of bail and suspension of sentence on the submission that the petitioner/appellant is the former Director General of Police (DGP) of the State of Kerala and he had amassed disproportionate assets in excess of his known sources of income, for which he failed to account for and the learned Special Judge found that he had amassed disproportionate assets amounting to ₹30,84,892.39, which would come to 52.33% of the total income, for which he failed

to account for. The learned Special Public Prosecutor reiterated the contentions raised in paragraph Nos.5, 6, 7 and 8 of the objection while opposing the prayer in the petition.

6. Here, *prima facie*, the finding of the learned Special Judge as regards the amassment of the wealth by the petitioner/appellant to the tune of ₹30,84,892.39, i.e., 52.33%, could be seen from the evidence discussed. It is relevant to note that during the relevant period of investigation, though the accused held pivotal post in the Police Department and later became the DGP, State of Keralam, he could not produce materials and documents to account for the wealth he alleged to have amassed disproportionate to his known sources of income before the Investigating Officer. Later, during trial, he had examined 23 witnesses as DW1 to DW23 to justify his contention that he did not amass any wealth disproportionate to his known sources of income. The learned Special Judge found

that the evidence so adduced would not, in any way, be sufficient to justify the contention of the petitioner/appellant that there was no disproportionate amassment of wealth. A pertinent aspect, in this connection, to be noted is that the petitioner/appellant even attempted to rely on the oral evidence adduced before the Court to account for the money he alleged to have amassed disproportionate to his known sources of income, though the same was a futile exercise, in the fact of the case. Thus, *prima facie*, the finding of the learned Special Judge could not be faulted in any manner. However, despite the objection raised by the State, this is a case in which the sentence imposed is only four years and in such view of the matter, the sentence can be suspended by imposing necessary conditions, in the interest of justice. At the same time, while suspending sentence, the mandate of Section 16 of the PC Act, where it has been provided that where a sentence of fine is imposed under sub-section (2) of

section 13 or section 14, the Court in fixing the amount of the fine shall take into consideration the amount or the value of the property, if any, which the accused person has obtained by committing the offence or where the conviction is for an offence referred to in clause (e) of sub-section (1) of section 13, the pecuniary resources or property referred to in that clause for which the accused person is unable to account satisfactorily.

Thus this petition is allowed as under:

- i) The petitioner/appellant/accused shall deposit 75% (seventy five percentage) of the fine amount imposed by the Special Court at first.
- ii) The petitioner/appellant/accused, after deposit of 75% percentage of the fine amount, shall execute bail bond for a sum of ₹5,00,000/- (Rupees five lakh only), with two solvent sureties each, to the satisfaction of the Special Court, within a further period of one week.

- iii) The petitioner/appellant/accused shall not involve in any other crimes and any such involvement if reported or came to the knowledge of this Court, the same is a reason to cancel this order suspending sentence and consequential cancellation of bail hereby granted.
- iv) The petitioner/appellant/accused shall not leave India without prior permission of this Court.

It is specifically ordered that the bail bond shall not be allowed to be executed and the petitioner/appellant/accused shall not be released on bail without depositing seventy five percentage of the fine amount imposed by the Special Court, as directed in condition No.1.

Sd/-
A. BADHARUDEEN
JUDGE