



1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24/03/2023

CORAM

The Hon'ble Mr. Justice **G. ILANGO VAN**

Crl.OP(MD)Nos.549 and 2455 of 2023

(1)Crl.OP(MD)No.549 of 2023:-

A.Gurusamy : Petitioner/A1

Vs.

1.The State represented by its
The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Periyakulam, Theni District.

2.The Inspector of Police,
All Women Police Station,
Periyakulam, Theni district.
(In Crime No.47 of 2021): R1 and R2/Complainants

3.Malarkodi : R3/De-facto Complainant

PRAYER:- This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to direct the Special Court for Trial cases under SC/ST Act (POA), Theni, to consider the bail application of the petitioner on the same day of his surrender itself in Crime No.47 of 2021 on the file of the 2nd respondent police and pass such other or other or further orders.



WEB COPY



2

For Petitioner : Mr.D.S.Haroon Rasheed
For R1 and R2 : Mr.B.Nambiselvan
Additional Public Prosecutor
For 3rd Respondent : Mr.N.Anandhapadmanabhan
for M/s.APN Law Associates

(2)Cr1.OP(MD)No.2466 of 2023:-

Vignesh : Petitioner/A2

Vs.

- 1.The State represented by its
The Deputy Superintendent of Police,
Office of the Deputy Superintendent of Police,
Periyakulam, Theni District.
- 2.The Inspector of Police,
All Women Police Station,
Periyakulam, Theni district.
(In Crime No.47 of 2021) : R1 and R2/Complainants
- 3.Malarkodi : R3/De-facto Complainant

PRAYER:- This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to direct the Special Court for Trial cases under SC/ST Act (POA), Theni, to consider the bail application of the petitioner on the same day of his surrender itself in Crime No.47 of 2021 on the file of the 2nd respondent police and pass such other or other or further orders.



WEB COPY



3

For Petitioner : Mr.P.Mani Anandh
For R1 and R2 : Mr.B.Nambiselvan
Additional Public Prosecutor
For 3rd Respondent : Mr.N.Anandhapadmanabhan
for M/s.APN Law Associates

COMMON ORDER

Both the petitions are filed seeking for direction to the Special Court for Trial cases under SC/ST (POA) Act, Theni, to consider the bail application of the petitioners namely A1 and A2 on the same day of their surrender itself in Crime No.47 of 2021 on the file of the second respondent police.

2.A1-Gurusamy is the petitioner in CrI.OP(MD)No. 549 of 2023. He seeks direction to the trial court to consider his bail application on the date of his surrender itself. So far as CrI.OP(MD)No.2466 of 2023 is concerned, A2-Vignesh is the petitioner.

3.Even though, while entertaining direction petition, merits of the case cannot be gone into by this court. However, the de-facto complainant made strong objection to entertain these petitions, even for direction.



4.The third respondent through his counsel made elaborate argument with regard to the facts and circumstances of the case.

5.As mentioned earlier, the facts and circumstances of the case cannot be taken into account by this court for deciding this issue. It is for the trial court to consider the facts and circumstances at the time of entertaining the bail application. Suffice to say that this court is not going to take up the merits of the case. Only limited scope is available to this court. Whether any *prima facie* case has been made out by the petitioner/A1 to show that the provisions of the Special Act has been invoked in an vindictive manner. So, he is not entitled for a direction.

6.But reading of the FIR does not indicate that the Special Act has been involved in an inductive manner. It is for the trial court in deep about the facts and circumstances of the case, as mentioned earlier. When the offence of 376 IPC has been alleged against A1, it may not be proper on the part of this court to direct the trial court to consider his bail application on the same



of his surrender. It depending upon the facts and circumstances of the case. Notice must be ordered to the de-facto complainant at the time of hearing the bail application under 15(A)(3) of the Act. So I am of the considered view that considering the allegation against A1, he is not entitled for any direction from this court. He has to surrender either before the Investigating Officer or concerned court and seek regular bail as per law.

7.In so far as the petitioner in Cr1.OP(MD)No.2466 of 2023/A2 is concerned, reading of the FIR shows that implication has been made against him not with regard to the issue between the de-facto complainant and A1. But A1 is having friendship with this petitioner. Considering the limited allegation made against the petitioner/A2, he is entitled for a direction.

8.In the result, Cr1.OP(MD)No.549 of 2023 filed by the first accused namely A.Gurusamy is **dismissed**. Cr1.OP(MD)No.2466 of 2023 filed by the second accused namely Vignesh is **allowed**. The petitioner/A2 in Cr1.OP(MD)No.2466 of 2023 shall appear before the learned



6

Special Court for Trial of cases under SC/ST (POA) Act, Theni, within a period of 15 days from the date of receipt of a copy of this order. On such surrender along with notice served to the de-facto complainant, the concerned Judge shall consider the bail application filed by the petitioner/A2 and pass appropriate orders on merits on the same day of his surrender, after hearing the de-facto complainant by complying with Section 15A(3) of the Act.

24/03/2023

Index:Yes/No
Internet:Yes/No

er



WEB COPY

To,

- 1.The Special Court for Trial cases under SC/ST (POA) Act, Theni.
- 2.The Deputy Superintendent of Police, Office of the Deputy Superintendent of Police, Periyakulam, Theni District.
- 3.The Inspector of Police, All Women Police Station, Periyakulam, Theni district.
- 4.The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.



WEB COPY



8

G.ILANGOVAN, J

er

Cr1.OP(MD)Nos.549 and 2455 of 2023

24/03/2023