



CrI.O.P.(MD)No.8263 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **27.04.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

CrI.O.P.(MD)No.8263 of 2023

Achu @ Aswathaman

... Petitioner/Accused No.1

Vs.

1.The Deputy Superintendent of Police,
Theni Sub Division,
Theni District.

... 1st Respondent/Complainant

2.The State rep. by the Inspector of Police,
Allinagaram Police Station,
Theni District.
(Crime No.4 of 2023)

... 2nd Respondent/Complainant

3.Muthulakshmi

... 3rd Respondent/Defacto Complainant

4.Alaguraja

... 4th Respondent/Victim

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to direct the learned Special Court for exclusive trial of cases under SC/ST Act (POA) Act, Theni District to entertain the bail application filed by the petitioner in Cr.M.P.No.SR655 of 2023 and to decide the same on merits.

For Petitioners : Mr.R.Shankar Ganesh

For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor



ORDER

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Aggrieved over the return of the bail application that was filed by the petitioner before the Special Court in Cr.M.P.No.SR655 of 2023, this petition has been filed seeking a direction.

2.Originally, this petitioner along with others filed bail application in CrI.M.P.No.337 of 2023. By the order dated 14.03.2023, it was dismissed by the Special Court. Against which all of them including this petitioner preferred an appeal in CrI.A.(MD).No.247 of 2023. By the order dated 12.04.2023, it was partly allowed in respect of other accused and so far this petitioner is concerned, it was dismissed. So again he moved another bail application in Cr.M.P.No.SR655 of 2023 on 13.04.2023, but, it came to be returned periodically, questioning the maintainability of the above said petition. Again it was finally returned on 18.04.2023, stating that since already appeal was disposed of on merits by this Court, second bail application is not maintainable.

3.This Court is not in position to understand the understanding of the trial Court. Bail application can be filed successively. There is no bar on that. The second bail application filed by the petitioner ought to have been entertained by the Special Court and pass orders on its own merits.



Disposing the appeal filed by the petitioner along with other accused may not be a bar for approaching the Court again for regular bail.

4. Therefore, this Court is of the considered view that the above said return made by the Special Court is not legal and liable to be set aside. Accordingly, the return made by the Special Court in Cr.M.P.No.SR655 of 2023 is hereby set aside. Let the above said returned bail application be re-presented before the concerned Special Court after getting back the same from the Registry. Liberty is also granted to the petitioner to file fresh application instead of representing the above said bail application. The Special Court shall consider the same on its own merits and pass orders.

5. With the above said directions and liberty, this criminal original petition is disposed of.

27.04.2023

Index : Yes/No
Internet : Yes/No
TM

Note: Issue order copy on 27.04.2023.

To

1. The District and Sessions Judge, Special Court for exclusive trial of cases under SC/ST Act (POA) Act, Theni District.



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- 2.The Deputy Superintendent of Police,
Theni Sub Division,
Theni District.
- 3.The Inspector of Police,
Allinagaram Police Station,
Theni District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN. J.

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