



*Crl.O.P.(MD)No.10777 of 2023*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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| Reserved on  | 06.07.2023 |
| Delivered on | 25.07.2023 |

CORAM

**THE HON'BLE DR.JUSTICE D.NAGARJUN**

**Crl.O.P.(MD)No.10777 of 2023**

1.Srinivasan  
2.R.Arulprakash  
3.A.Babu

... Petitioners

Vs.

1. The Deputy Superintendent of Police,  
Thiruverumbur Sub Division,  
Trichy District.

2. The State rep. by  
The Inspector of Police,  
Boiler Plant Police Station,  
Trichy District.  
(Cr.No.18/2023)

3.Kalyanakumar

... Respondents

**PRAYER :** Criminal Original Petition filed under Section 482 of Criminal Procedure Code, directing the Special Court Judge/PCR, Trichy District to accept the surrender of the petitioners along with bail application in Cr.No.18 of 2023 on the file of the second respondent police herein and to consider to dispose the bail application on the same



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day on merits.

For Petitioners : Mr.M.Karunanithi

For R1 & R2 : Mr.E.Antony Shaya Prabahar  
Additional Public Prosecutor  
for R1 and R2  
Ms.G.Pravina for R3

### **ORDER**

Accused Nos.1 to 3 in Crime No.18 of 2023 pending on the file of the second respondent have filed this petition seeking for a direction to the learned Special Judge/PCR, Trichy District, to accept the surrender of the petitioners along with bail application in Crime No.18 of 2023 and to consider and dispose of the bail application on the same day on merits.

2. It is submitted by the learned counsel for the petitioner that a false case was registered against the petitioners alleging that they have committed offences punishable under Sections 3(1) (p) (r) (u) and (z) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, in Crime No.18 of 2023 on the basis of complaint given by the third respondent.



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3. It is submitted that the third respondent/defacto complainant has completed three years Diploma course in Civil Engineering and that he was issued with transfer orders on 08.05.2023, with an intention to see that he does not get the promotion and that if he is not transferred from Trichy, he will get the promotion. It is further submitted that he was elected as Director in BHEL Cooperative Bank at Trichy, and in order to trouble him, transfer orders are given.

4. It is submitted by the petitioner that as per the FIR, no offence is made out against the petitioners and the transfer orders issued to the third respondent are only on the basis of organizational requirement, the complaint against the petitioner is filed to take vengeance on account of certain issues in the office and that the allegations levelled against the petitioners are baseless.

5. Ms.C.Pravina, learned counsel, intervened on behalf of the third respondent/defacto complainant and strongly opposed for granting relief as sought for by the petitioner. She has filed certain documents to show



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that the third respondent/defacto complainant is elected as Union Leader for BPEU/INTUC and Director of BHEL Employees Co-operative Bank and that the respondent/defacto complainant is working as a Civil Engineer, BHEL and that he was intentionally transferred to Punjab, Goindwal in the same category and that the transfer of the third respondent/defacto complainant is discriminatory and malicious.

6. It is further submitted that aggrieved by the transfer orders, the third respondent/defacto complainant stated to have approached the Ministry of Labour and Employment, Office of the Assistant Labour Commissioner (Central), on which, orders have been issued by the Ministry of Labour and Employment, Office of the Assistant Labour Commissioner (Central), Pondicherry, asking the General Manager/HR, BHEL, Trichy, the third respondent/defacto complainant, the General Secretary, BHE LLF Labour Liberation Front-VCL and the General Secretary, Thirumayam BHEL National Workers and Staff Union, to attend the Joint Discussions/Conciliation proceedings in person. The said notice dated 11.05.2023 also speaks that both Management and Unions are advised to adhere to the provisions of Section 33 of the Industrial



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Dispute Act, 1947.

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7. The third respondent/defacto complainant also approached the National Commission for Scheduled Castes, on which, the said Commission has addressed letter to the Executive Director, BHEL, and also to the Superintendent of Police, Trichy District, asking them to submit facts and information and the action taken in respect of complaint given by the third respondent/defacto complainant that he was prevented from entering into the office and thereby, atrocities were practicing against him.

8. Learned counsel for the third respondent/defacto complainant finally submitted that the petitioners shall not be granted any relief and that the defacto complainant shall be given an opportunity prior disposing the bail application.

9. The petitioners have sought for a direction to the learned Special Court/PCR, Trichy District, to consider the surrender of the petitioners along with bail application and to dispose of the same on



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merits. Since there is a bar under SC/ST Act, not to grant pre-arrest bail, the accused under SC/ST Act have been resorting to file an application under Section 482 of Cr.P.C. for a direction to the learned Special Court/PCR, dealing with cases of SC/ST Act to consider the surrender and bail application and after accepting the surrender, to dispose of the bail application on the very same day.

10. Whenever an application for grant of bail is filed including the offences committed under SC/ST Act, the Special Court request to hear not only the counsel for the accused but also the learned Additional Public Prosecutor appearing on behalf of the State and if necessary to hear the defacto complainant also. In case, if the Court is directed to dispose of the bail application on the very same day, there is a possibility that the learned Additional Public Prosecutor may not be having proper instructions. In a case like this, where there is a strong opposition from the defacto complainant, the Courts are required to be more vigilant while considering the bail applications as the accused may submit only his side of the version while the learned Additional Public Prosecutor do not have proper instructions.



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11. This petition is filed for a simple direction to the learned Special Judge to accept the surrender and dispose of the bail application on the very same day. Considering the circumstances, the petitioners are at liberty to surrender before the learned Special Judge, (PCR) Court, Trichy, within a period of 15 days from the date of receipt of a copy of this order. If the petitioners surrender and file bail application, the learned Special Judge is directed to dispose of the same as per law as expeditiously as possible by giving notice to the prosecutor and on hearing both sides.

12. It is needless to state that merely because these directions are given to dispose of the application as expeditiously as possible does not mean that the bail application shall be allowed. The learned Special Judge is required to hear all the parties and dispose of the same as per law.

**25.07.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
PKN



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1. The Deputy Superintendent of Police,  
Thiruverumbur Sub Division,  
Trichy District.
2. The Inspector of Police,  
Boiler Plant Police Station,  
Trichy District.
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**DR.D.NAGARJUN,J**

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Dated: 25.07.2023