

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.2727 OF 2018

ORDER:

This petition is filed under Section 438 of Criminal Procedure Code (for short "Cr.P.C.") by accused Nos.1 and 2, apprehending their arrest, in Crime No.16 of 2017 on the file of Dakkili Police Station, SPSR Nellore District, registered for the offences punishable under Sections 447 and 379 read with 34 of Indian Penal Code (for short "I.P.C.") and under Section 3 (1) (r) (s) of S.C. and S.T. (POA) Act, to direct the Station House Officer, Dakkili Town Police Station to release them on bail in the event of their arrest in connection with the above crime.

The case of the prosecution, in brief, is that on 25.03.2017 at about 02.30 p.m. when the defacto complainant carrying on the cutting of paddy crop in his land, the petitioners alleged to have gone there and objected him for cutting the paddy crop by abusing him in the name of his caste as "**Madiga na kodaka, Madiga lanja munda**". It is also alleged that after the dispute, the defacto complainant stored the paddy which is about 10 trunks in the land itself, thereafter the petitioners on the next day morning in the early hours i.e. at about 04.00 a.m. weighed the paddy belongs to the defacto complainant and shifted same to Dandolu road. Thereafter, in the morning the defacto complainant and his wife came to know that the petitioners stolen their paddy and on that they lodged a report in Dakkili Police Station.

Learned counsel for the petitioners contended that except making omnibus allegations, no specific overt acts are attributed to

any of the petitioners. Therefore, the petitioners are entitled to be enlarged on pre-arrest bail.

In view of the bar under Section 18 of the S.Cs. and S.Ts. (POA) Act when any person committed offence punishable under the provisions of S.C. and S.T. (POA) Act, the pre-arrest bail cannot be granted. Therefore, the petitioners are disentitled to claim pre-arrest bail in view of the bar under Section 18 of the S.C. and S.T. (POA) Act.

However, at the end of argument, learned counsel for the petitioners requested this Court to direct the Station House Officer, Dakkili Police Station to follow the procedure laid down in Section 41-A of Cr.P.C. as the petitioner No.1 is aged about 76 years.

Acceding to the request of the learned counsel for the petitioners, Station House Officer, Dakkili Police Station is directed to follow the procedure laid down in Section 41-A of Cr.P.C. as the offences referred supra are punishable with imprisonment less than 7 years, while dismissing the petition.

With the above direction, the petition is dismissed.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

19.03.2018
Ksp