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Crl.O.P.Nos.31208 & 31368 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 05.01.2023**

**CORAM:**

**THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN**

**Crl.O.P.Nos.31208 & 31368 of 2022**

Kumar @ Murugan ... Petitioner in Crl.O.P.No.31208 of 2022

1.Pettai Sankar @ Ilangovan

2.Veeramani

3.Mittai Murugan

4.Prabakaran ... Petitioners in Crl.O.P.No.31368 of 2022

**Vs.**

1.The Inspector of Police,  
PCR Cell, Karaikal.

2.Rajendran ... Respondents in Crl.O.P.Nos.31208 &  
31368 of 2022

**COMMON PRAYER:** Criminal Original Petitions filed under Section 482 Cr.P.C. praying to direct the learned II Additional Sessions Judge, (Special Court under ST & SC Atrocities Act at Pondicherry) to consider the petitioners' bail application on the same day on their surrender in connection with the Crime No.1 of 2022 pending on the file of the PCR Cell, Karaikal.



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**In both Crl.O.Ps.**

For Petitioners : M/s.Pondy Law Firm  
For Respondent : Mr.V.Balamurugane  
No.1 Public Prosecutor, Puducherry.  
  
For Respondent : Mr.S.Vinothkumar  
No.2

**COMMON ORDER**

These Criminal Original Petitions have been filed to direct the II Additional Sessions Judge, (Special Court under ST & SC Atrocities Act at Pondicherry) to consider the petitioners' bail application on the same day on their surrender in connection with the Crime No.1 of 2022, pending on the file of the first respondent.

2.The learned counsel for the petitioners submitted that the second respondent lodged a complaint against the petitioners with the first respondent and the same was registered in Crime No.1 of 2022, for the offences under Sections 3 (1) (f) (g) (r) and (s) of SC/ST (Prevention of Atrocities) Act, 1989 and Sections 109, 427, 506 (ii) IPC r/w 34 IPC. He further submitted that on account of the land dispute between the second respondent and the fifth accused Prabakaran, the second respondent with an



intention to threaten the said Prabakaran had lodged this complaint against the petitioners. Therefore, this petition.

3.The learned counsel for the second respondent strongly opposed this petition by referring to Section 18-A of the SC & ST (Prevention of Atrocities) Act, 1989 (hereinafter referred to as 'the Act'). Section 18-A (2) of the Act reads as follows:

*(2) The provisions of section 438 of the Code shall not apply to a case under this Act, notwithstanding any judgment or order or direction of any Court.*

He further brought to the notice of this Court, the Rights of victims and witnesses under Section 15-A of the Act. As per Section 15-A (3) of the Act, a victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings. As per Section 15-A (5), a victim or his dependent shall be entitled to be heard at any proceeding in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected



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proceedings or arguments and file written submission on conviction, acquittal or sentencing.

4.This Court totally agrees with the submissions of the learned counsel for the second respondent. This Court is not ordering any anticipatory bail to the petitioners. The very prayer in these petitions is that on surrendering of the petitioners and filing bailing application, it is requested that the bail application may be considered on the same day. Granting of these reliefs does not amount to grant of anticipatory bail or bail.

5.In view of the specific bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and also taking into consideration of the possibility of misusing the pious intention of the Parliament against innocent persons, there shall be a direction to the learned II Additional Sessions Judge, (Special Court under ST & SC Atrocities Act at Pondicherry) to consider the petitioners' bail application, preferably on the same day of their surrender in connection with Crime No. 1 of 2022 on the file of the first respondent and pass appropriate orders in accordance with law, after affording due opportunity to the victims under Section 15-A of the SC/ST (POA) Act, 1989. The petitioners shall surrender before the concerned



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Jurisdictional Court, within a period of fifteen days from the date of the receipt of a copy of this Order.

6. It is needless to say that the Court below while disposing the bail petition shall look into the gravity of the offence, previous antecedents of the petitioners and pass orders. Mere direction issued by this Court to consider the bail petition on the same day, does not amount to consider it favourably.

7. In view of the above, the Criminal Original Petitions stand disposed of.

**05.01.2023**

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Internet: Yes

Index: Yes/No

Speaking/Non speaking order

To:

1. The II Additional Sessions Judge,  
Special Court under ST & SC Atrocities Act,  
Pondicherry.

2. The Inspector of Police,  
PCR Cell, Karaikal.

3. The Public Prosecutor,  
High Court of Madras.

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**G.CHANDRASEKHARAN, J.**

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