



WEB COPY



CrI.O.P.No.28818 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.28818 of 2024

1. Palaniyappan. C
2. Lakshmi
3. Velu
4. Boopalan
5. Saraswathi

... Petitioners

Vs.

1. Deputy Superintendent of Police,
Konganapuram, Edapadi Taluk,
Salem District.
2. State Rep.by
Inspector of Police,
Konganapuram, Edapadi Taluk,
Salem District,
Crime No.221 of 2024.

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS/482 Cr.P.C, to direct the Principal District Sessions Judge, Salem District, to consider the bail application to be filed by the petitioner in connection with the Crime No.221 of 2024 dated 09.07.2024 on the file of the Konganapuram Police Station, Edapadi Taluk, Salem District on their surrender on the same day.



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For Petitioners : Ms.J.Muthuchelvi
For Respondents : Mr.S.Sugendran
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to direct the learned Principal District Sessions Judge, Salem District, to consider the bail application to be filed by the petitioners in connection with the Crime No.221 of 2024 dated 09.07.2024 on the file of the second respondent Police, on the same day of their surrender.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for respondents and also perused the materials available on record.

3. It is to be noted that Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short “SC/ST Act”), is bar to file a petition under Section 438 Cr.P.C. Therefore Anticipatory Bail is not maintainable for the offence under the SC/ST Act. Further Section 15A under Chapter IV-A was introduced by Act



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1 of 2016 w.e.f. 26.01.2016, as per which, notice has to be sent to the victim, in respect of any proceedings and without giving notice, no proceedings shall be proceeded further. Further, the inherent power under Section 482 Cr.P.C. should not be invoked automatically and the jurisdiction under Section 482 Cr.P.C. should be exercised sparingly. When there is specific bar under the Special Act, this Court cannot ignore the intention of the Legislators and the purpose of enactment of the Special Act. If the petitioners application is directed to be considered on the same day without giving notice to the victim, the purpose of Section 15A(3)(5) of SC/ST Act would be defeated and the same would curtail the statutory right of the victim.

4. Under such circumstances, this Court is not inclined to invoke Section 482 Cr.P.C., which would amount to ignoring the provisions of the Special Act. Therefore, this Criminal Original Petition shall stand dismissed. However, the petitioners are at liberty to workout their remedy in the manner known to law and the learned Special Judge is directed to exercise his/her discretionary power, after giving notice to the



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victim. The learned Special Judge/Magistrate is also directed to adhere
the statutory provisions of Sections 18 and 15 A (3)(5) of SC/ST Act.

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Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

1. The Principal District Sessions Judge,
Salem District.
2. The Deputy Superintendent of Police,
Konganapuram, Edapadi Taluk,
Salem District.
3. The Inspector of Police,
Konganapuram, Edapadi Taluk,
Salem District.
4. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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