



WEB COPY



CrI.O.P.No.28661 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

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- 1.Palaniraja
- 2.V.Dhanalakshmi
- 3.B.Chithra Bhavani
- 4.Reka
- 5.Kandavelu
- 6.L.Bharanidharan
- 7.V.Rajashri
- 8.Manikandan

... Petitioners

Vs.

- 1.The Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Puducherry.

- 2.The State Rep.by
The Inspector of Police,
Reddiarpalayam, Puducherry,
Crime No.187 of 2024.

- 3.Jayalatchumi

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to direct the Special Court of SC/ST(POA) Act, Sessions Judge, Puducherry to accept the surrender of petitioners and consider their bail application and grant bail on the same date of surrender itself in



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connection with the case in Crime No.187 of 2024, registered on 30.09.2024 on the file of the first respondent police.

For Petitioners : Mr.Giri Nagu Kumar
For Respondents : Mr.K.S.Mohandass
Additional Public Prosecutor
(Puducherry) assisted by
Ms.N.Danalatchumy
Government Advocate for R1 and R2

ORDER

This Criminal Original Petition is filed to direct the learned Sessions Judge, Special Court of SC/ST(POA) Act, Puducherry, to accept the surrender of the petitioners and also consider their bail application on the same day of their surrender in connection with the case in Crime No.187 of 2024, registered on 30.09.2024 on the file of the first respondent police.

2. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor (Puducherry) for respondents 1 and 2 and also perused the materials available on record.

3. It is to be noted that Section 18 of the Scheduled Castes and the



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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 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



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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 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.

18.11.2024

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

1. The Sessions Judge,
Special Court of SC/ST(POA) Act,
Puducherry.
2. The Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Puducherry.
- 3.The Inspector of Police,
Reddiarpalayam,
Puducherry.
4. The Public Prosecutor,
Puducherry.



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P.VELMURUGAN, J

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