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CrI.O.P.No.28545 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.28545 of 2024

L.Muruganandham

... Petitioner

Vs.

The State represented by

1. The Commissioner of Police,
O/o. The Commissioner of Police,
Salem City, Salem.

2. The Inspector of Police,
D1, Fairlands Police Station,
Salem,
Crime No.372 of 2024.

3. Priyadharsini

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to direct the Special Court for Schedule Castes/Schedule Tribes (Prevention of Atrocities) Act, Salem to accept the surrender of the petitioner and consider the petitioner's bail application on the same day and grant a date of surrender itself in Crime No.372 of 2024, pending on the file of the respondent/Police.



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For Petitioner : Mr.D.Murthy
For Respondents : Mr.S.Sugendran
Additional Public Prosecutor
for R1 and R2

ORDER

This Criminal Original Petition is filed to direct the Special Court for Schedule Castes/Schedule Tribes (Prevention of Atrocities) Act, Salem to consider the bail application of the petitioner herein on the same day of his surrender pertaining to Crime No.372 of 2024, pending on the file of the second respondent/Police.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the 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 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



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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 petitioner 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 petition shall stand dismissed. However, the petitioner is at liberty to workout his 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.

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Index : Yes/No

Neutral Citation Case : Yes/No



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Speaking Order : Yes/No
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To

1. The Special Judge
Special Court for SC/ST (POA) Act Cases,
Salem.
2. The Commissioner of Police,
O/o. The Commissioner of Police,
Salem City, Salem.
3. The Inspector of Police,
D1, Fairlands Police Station,
Salem.
4. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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