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CrI.O.P.No.28914 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.28914 of 2024

1. Muki @ Mukilan
2. Kaliaperumal
3. Aappi @ Santhoshkumar

... Petitioners

Vs.

1. The Deputy Superintendent of Police
Ariyalur, Ariyalur District

2. State rep. by
The Inspector of Police
Ariyalur Police Station
Ariyalur District
Crime No.375 of 2024

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to direct the learned Principal District Sessions Judge, Ariyalur to consider the bail application on the same day on his surrender and the bail application for the petitioners in Crime No.375 of 2024 on the file of the Inspector of Police, Ariyalur Police Station, Ariyalur.

For Petitioners : Mr.B.Mehndra Naidu
For Respondents : Mr.S.Sugendran
Additional Public Prosecutor

ORDER



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This Criminal Original Petition is filed to direct the learned Principal District Sessions Judge, Ariyalur to consider the bail application of the petitioners on the same day of their surrender pertaining to Crime No.375 of 2024 on the file of the Inspector of Police, Ariyalur Police Station, Ariyalur.

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

3. It is to be noted that as per Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short “SC/ST Act”), there is a bar to file a petition under Section 438 Cr.P.C./482 of B.N.S.S. 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./528 of B.N.S.S. should not be invoked automatically and the jurisdiction under Section 482 Cr.P.C./528 of B.N.S.S. should be exercised sparingly. When there is a



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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 Sections 18 and 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./528 of B.N.S.S., which would amount to ignoring the provisions of the Special Act. Therefore, this 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/Magistrate 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.

19.11.2024

Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No

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To

1. The Principal District Sessions Judge, Ariyalur



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2. The Deputy Superintendent of Police
Ariyalur, Ariyalur District

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3. The Inspector of Police
Ariyalur Police Station
Ariyalur District
Crime No.375 of 2024

4. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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