



WEB COPY



CrI.O.P.No.28924 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.28924 of 2024

P.Dinesh

... Petitioner

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), Sessions Judge, Puducherry to accept the surrender of the petitioner and consider his bail application and grant bail on the same date of surrender itself in connection with the case in Crime No.187 of 2024, registered on 30.09.2024 on the file of the 1<sup>st</sup> respondent police.

For Petitioner : Mr.Giri Nagu Kumar

For Respondents 1 & 2: Mr.K.S.Mohandass

Additional Public Prosecutor (Puducherry)

Assisted by Mrs.N.Danalatchumy

(Government Advocate)



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## **ORDER**

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This Criminal Original Petition is filed to direct the Special Court of SC/ST (PoA), Sessions Judge, Puducherry to accept the surrender of the petitioner and consider his bail application and grant bail on the same date of surrender itself in connection with the case in Crime No.187 of 2024, registered on 30.09.2024 on the file of the 1<sup>st</sup> respondent police.

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



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482 Cr.P.C./528 of B.N.S.S. should be exercised sparingly. When there is a 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 Sections 15A(3)(5) and 18 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 petitioner is at liberty to workout his 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

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1. The Sessions Judge,  
Special Court of SC/ST (PoA), 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)  
High Court, Madras.



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**P.VELMURUGAN, J**

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