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Crl.O.P.No.29507 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.29507 of 2024

... Petitioner

Elilarasi @ Ezhilarasi

Vs

1. The Deputy Superintendent of Police,
Mangalamedu,
Perambalur.

2. The State represented by,
The Inspector of Police,
Kunnam Police Station,
Perambalur District.

3. V.Simran

... Respondents

PRAYER:

Criminal Original Petition filed under Section 528 of BNSS, to direct the learned Special Court for Trial of Cases under the SC/ST (Prevention of Atrocities) Act, Perambalur to consider the petitioner's bail application on the same day of her surrender, thereby allowing her to secure bail in Crime No.473 of 2024 pending before the respondent police.



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Crl.O.P.No.29507 of 2024

For Petitioner : Mr.M/s.Tamizh Law Firm
For R1 & R2 : Mr.S.Sugendran
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to direct the learned Special Court for Trial of Cases under the SC/ST (Prevention of Atrocities) Act, Perambalur to consider the petitioner's bail application on the same day of her surrender and thereby allowing her to secure bail in Crime No.473 of 2024 pending before the respondent police.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the official respondents and 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./483 of B.N.S.S. Therefore Anticipatory Bail is not maintainable



CrI.O.P.No.29507 of 2024

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 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 petitioner is at liberty to workout her



CrI.O.P.No.29507 of 2024

WEB COPY

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.

25.11.2024

mfa

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

Copy to

Special Court for Trial of Cases under the SC/ST (Prevention of Atrocities) Act,
Perambalur.

To

1. The Deputy Superintendent of Police,
Mangalamedu,
Perambalur.
2. The State represented by,
The Inspector of Police,
Kunnam Police Station,
Perambalur District.



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CrI.O.P.No.29507 of 2024

P.VELMURUGAN, J.

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CrI.O.P.No.29507 of 2024

25.11.2024