



WEB COPY



CrI.O.P.No.30363 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.30363 of 2024

V.Dhamodharan

... Petitioner

Vs.

1. The Deputy Superintendent of Police,
Thachira Palayam Road,
RTO Office Near,
Kallakurichi District.

2. State Rep.by
Inspector of Police,
Chinna Salem Police Station,
Kallakurichi District,
Crime No.562 of 2024

3. Kala

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to direct the Principal District and Sessions Judge, Kallakurichi District (Special Judge for SC & ST Act) to consider the bail application on the same of his surrender and pass orders in connection with Crime No.562 of 2024.



WEB COPY



CrI.O.P.No.30363 of 2024

For Petitioner : Mr.G.Mohana Krishnan
For Respondents : Mr.S.Sugendran
Additional Public Prosecutor
for R1 and R2

ORDER

This Criminal Original Petition is filed to direct the learned Principal District and Sessions Judge, (Special Judge for SC & ST Act) Kallakurichi District, to consider the bail application of the petitioner herein on the same day of his surrender pertaining to Crime No.562 of 2024 on the file of the second respondent police.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for respondents 1 and 2 and 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./482 BNSS. Therefore Anticipatory Bail is not maintainable for the offence under the



CrI.O.P.No.30363 of 2024

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 BNSS should not be invoked automatically and the jurisdiction under Section 482 Cr.P.C., /528 BNSS 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 application of the petitioner 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./528 BNSS 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



CrI.O.P.No.30363 of 2024

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.

04.12.2024

Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No

ms

To

1. The Principal District and Sessions Judge,
(Special Judge for SC & ST Act),
Kallakurichi District.
2. The Deputy Superintendent of Police,
Thachira Palayam Road,
RTO Office Near,
Kallakurichi District.
3. The Inspector of Police,
Chinna Salem Police Station,
Kallakurichi District.
4. The Public Prosecutor,
High Court, Madras.



WEB COPY



CrI.O.P.No.30363 of 2024

P.VELMURUGAN, J

ms

CrI.O.P.No.30363 of 2024

04.12.2024