



CrI.O.P.No.31412 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.31412 of 2024

Vasanthakumar

... Petitioner

Vs.

1. The Deputy Superintendent of Police
Ariyalur, Ariyalur District

2. State Rep. by
The Inspector of Police
Sendurai Police Station
Ariyalur District
Crime No.289 of 2024

3. Anantharaj

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S. praying 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.289 of 2024 on the file of the Inspector of Police, Sendurai Police Station, Ariyalur.



Cr.O.P.No.31412 of 2024

For Petitioner : Mr.B.Mahendra Naidu

For Respondents 1 and 2 : Mr.S.Sugendran
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed by the petitioner to direct the learned Principal District Sessions Judge, Ariyalur to consider the bail application of the petitioner on the same day of his surrender in Crime No.289 of 2024 on the file of the Inspector of Police, Sendurai Police Station, Ariyalur.

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. Since no adverse order is being passed, notice to the 3rd respondent is dispensed with.

4. It is to be noted that as per Section 18 of the Scheduled Castes and the



Cr.O.P.No.31412 of 2024

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 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 petitioner's 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.



Cr.L.O.P.No.31412 of 2024

5. 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.

16.12.2024

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

ksa-2



CrI.O.P.No.31412 of 2024

To

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1. The Principal District Sessions Judge, Ariyalur
2. The Deputy Superintendent of Police
Ariyalur, Ariyalur District
3. The Inspector of Police
Sendurai Police Station
Ariyalur District
4. The Public Prosecutor
High Court of Madras



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CrI.O.P.No.31412 of 2024

P.VELMURUGAN. J.

Ksa-2

CrI.O.P.No.31412 of 2024

16.12.2024