



CrI.O.P.No.32019 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.32019 of 2024

Chinnagounder

... Petitioner

Vs.

1. The Deputy Superintendent of Police
Rasipuram Town
Namakkal District

2. The Inspector of Police
Vennandur Police Station
Vennandur, Namakkal District

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to direct the Special Court of Exclusive Trial of SC & ST Act Cases, Namakkal, to consider the bail petition to be filed by the petitioner in Crime No.246 of 2024, pending on the file of the respondent police on the same day of his surrender.

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



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ORDER

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This Criminal Original Petition is filed by the petitioner to direct the Special Court of Exclusive Trial of SC & ST Act Cases, Namakkal, to consider the bail petition to be filed by the petitioner in Crime No.246 of 2024, pending on the file of the respondent police on the same day of his surrender.

2. 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 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



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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.

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.

20.12.2024

Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No

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To

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1. The Deputy Superintendent of Police
Rasipuram Town
Namakkal District
2. The Inspector of Police
Vennandur Police Station
Vennandur, Namakkal District
3. The Public Prosecutor,
High Court, Madras.



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