



Crl.O.P.No.389 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.389 of 2025

D.Boopathi

... Petitioner

Vs.

1. The State Rep. by
The Deputy Superintendent of Police
Paramathi Velur, Namakkal District

2. The Inspector of Police
Velagoundampatti Police Station
Namakkal District
(Crime No.160 of 2024)

3. Manikandan

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S. to direct the learned District Special Judge for SC/ST Act, Namakkal to consider the bail application of the petitioner on the very same day of his surrender itself in connection with Crime No.160 of 2024 pending on the file of the respondent police.



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For Petitioner : Mr.T.S.Arthanareeswaran
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 District Special Judge for SC/ST Act, Namakkal to consider the bail application of the petitioner on the very same day of his surrender itself in connection with Crime No.160 of 2024 pending on the file of the respondent police.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents 1 and 2 and also perused the materials available on record.

3. Since no adverse order is being passed against the 3rd respondent, 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 Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short “SC/ST Act”),



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there is a bar to file a petition under Section 438 Cr.P.C./483 of B.N.S.S.

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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.



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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.

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

1. The District Special Judge for SC/ST Act,
Namakkal
2. The Deputy Superintendent of Police
Paramathi Velur, Namakkal District
3. The Inspector of Police
Velagoundampatti Police Station
Namakkal District
4. The Public Prosecutor
High Court of Madras



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P.VELMURUGAN. J.

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