



Crl.O.P.No.1386 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2025

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.1386 of 2025

Gopinath

... Petitioner

Vs.

1. The Deputy Superintendent of Police,
Ariyalur, Ariyalur District.

2. State by
The Inspector of Police,
Ariyalur Police Station,
Ariyalur District.

...

Respondents

(Crime No.375 of 2024)

PRAYER:

Criminal Original Petition filed under Section 528 of BNSS, to direct the learned Principal Sessions Judge, Ariyalur, the Special Court constituted under SC/ST (Prevention of Atrocities) Act, to consider the petitioner's bail application upon his surrender on the same day in respect of Crime No.375/2024, pending on the file of the 2nd Respondent Police.

For Petitioner : Mr.R.Gokulakrishnan

For Respondents : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)



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ORDER

This Criminal Original Petition has been filed to direct the learned Principal Sessions Judge, Ariyalur, the Special Court constituted under SC/ST (Prevention of Atrocities) Act, to consider the petitioner's bail application upon his surrender on the same day in respect of Crime No.375/2024, pending on the file of the second respondent police.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the 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 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



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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 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



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also directed to adhere the statutory provisions of Sections 18 and 15 A
(3)(5) of SC/ST Act.

22.01.2025

mfa

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1. The Deputy Superintendent of Police,
Ariyalur, Ariyalur District.
2. The Inspector of Police,
Ariyalur Police Station,
Ariyalur District.
3. The Public Prosecutor,
High Court, Chennai.

Copy to

The Principal Sessions Judge, Special Court constituted under SC/ST
(Prevention of Atrocities) Act, Ariyalur.



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P.VELMURUGAN, J.

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