



Crl.O.P.No.17222 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2025

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.17222 of 2025

Palanisamy

... Petitioner

Vs

1. State represented by,
The Deputy Superintendent of Police,
Melchengam Police Station,
Tiruvannamalai District.

2. The Inspector of Police,
Melchengam Police Station,
Tiruvannamalai District.

3. Mageswari

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of BNSS 2023, to direct the learned Principal District and Sessions Judge cum Special Judge for SC/ST Cases, Tiruvannamalai to consider and pass order on the petitioner bail application in connection with the Crime No.164 of 2025 on the file of the second respondent Police on their surrender and pass orders on merits on the same day.



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For Petitioner : Mr.E.Sathiyaraj
For R1 and R2 : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to direct the learned Principal District and Sessions Judge cum Special Judge for SC/ST Cases, Tiruvannamalai to consider and pass orders on the petitioner's bail application in connection with the Crime No.164 of 2025 on the file of the second respondent Police on his surrender and pass orders on merits on the same day.

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



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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.

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.



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5. However, the petitioner is at liberty to workout his remedy before the Special Court 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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mfa

Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



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To

1. The Principal District and Sessions Judge cum Special Judge for SC/ST Cases, Tiruvannamalai.
2. The Deputy Superintendent of Police,
Melchengam Police Station,
Tiruvannamalai District.
3. The Inspector of Police,
Melchengam Police Station,
Tiruvannamalai District.
4. The Public Prosecutor,
High Court, Chennai.



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P.VELMURUGAN, J

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