



Crl.O.P.No.17721 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2025

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.17721 of 2025

1. Mohan Kumar @ Mohan Raj

2. Surya

... Petitioners

Vs

State Rep. By

1. The Deputy Superintendent of Police,
Gudiyatham,
Vellore District.

2. The Inspector of Police,
Melpatti Police Station,
Vellore District.

3. Vignesh

... Respondents

PRAYER:Criminal Original Petition filed under Section 528 of BNSS 2023, to direct the Special Court for the cases under SC/ST Act Vellore to accept the surrender of the petitioners and to consider the bail petition on the same day in Crime No.72 of 2025 on the file of the 2nd Respondent Police.



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For Petitioners : Mr.C.Deepak Kumar

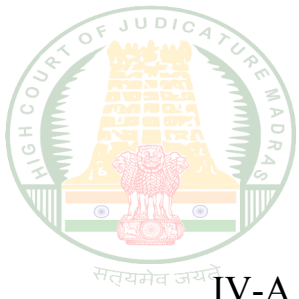
For R1 & R2 : Mr.S.Vinoth Kumar
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to direct the Special Court for the cases under Sc/ST Act Vellore to accept the surrender of the petitioners and to consider the bail petition on the same day in Crime No.72 of 2025 on the file of the 2nd Respondent Police.

2. Heard the learned counsel appearing for the petitioners and the learned Government Advocate appearing for the respondent 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



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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 petitioners are at liberty to workout their 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.

20.06.2025

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



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To

1. The Special Court for the cases under SC/ST Act Vellore.
2. The Deputy Superintendent of Police,
Gudiyatham,
Vellore District.
3. The Inspector of Police,
Melpatti Police Station,
Vellore District.
4. The Public Prosecutor
High Court, Chennai.



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P.VELMURUGAN, J

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