



CrI.O.P.No.32281 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.32281 of 2024

Kovalan

... Petitioner

Vs.

1. The Deputy Commissioner of Police,
O/o. The Deputy Commissioner of Police,
Puducherry.
2. The Inspector of Police,
PCR Cell Police Station,
Puducherry, Crime No.0004 of 2024.

3. Malathi

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to issue directions to the learned Additional District Sessions Court No.II, Puducherry by considering the petitioner's bail application along with surrender petition in Crime No.04 of 2024 on the same day of his surrender before the Court in accordance with law.



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For Petitioner : Mr.C.Gokulvisvas
For Respondents : Mr.K.S.Mohandass
Additional Public Prosecutor
(Puducherry) assisted by
Ms.N.Danalatchumy for R1 and R2

ORDER

This Criminal Original Petition is filed to direct the learned Additional District and Sessions Judge - II, Puducherry to consider the bail application along with surrender petition of the petitioner herein on the same day of his surrender pertaining to Crime No.04 of 2024 on the file of the second respondent police.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor (Puducherry) appearing for respondents 1 and 2 and perused the materials available on record.

3. It is to be noted that Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short “SC/ST Act”), is bar to file a petition under Section 438 Cr.P.C./482 BNSS.



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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 BNSS should not be invoked automatically and the jurisdiction under Section 482 Cr.P.C., /528 BNSS should be exercised sparingly. When there is 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 application of the petitioner is directed to be considered on the same day without giving notice to the victim, the purpose of Section 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 BNSS 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



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the manner known to law and the learned Additional District and Sessions Judge, is directed to exercise his/her discretionary power after giving notice to the victim. The learned Special Judge/Magistrate/Sessions Judge is also directed to adhere the statutory provisions of Sections 18 and 15 A (3)(5) of SC/ST Act.

02.01.2025

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

1. The Additional District Sessions Court No.II,
Puducherry.
2. The Deputy Commissioner of Police,
O/o. The Deputy Commissioner of Police,
Puducherry.
3. The Inspector of Police,
PCR Cell Police Station,
Puducherry.
4. The Public Prosecutor,
Puducherry.



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P.VELMURUGAN, J

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