

IN THE HIGH COURT OF KARNATAKA AT BENGALURU  
DATED THIS THE 18<sup>TH</sup> DAY OF NOVEMBER, 2022  
BEFORE  
THE HON'BLE MR. JUSTICE RAJENDRA BADAMIKA  
**CRIMINAL PETITION NO. 11104 OF 2022**

**BETWEEN:**

SURESH @ SURI  
S/O MALLAPPA  
AGED ABOUT 28 YEARS  
R/A AMBEDKAR NAGAR  
12<sup>TH</sup> WARD, BAGEPALLI  
TOWN  
CHIKKABALLAPUR DIST.

...PETITIONER

(BY SRI. MANOHAR.N, ADVOCATE-ABSENT)

**AND:**

STATE OF KARNATAKA BY  
BAGEPALLI POLICE STATION  
REP. BY ITS STATE PUBLIC PROSECUTOR

... RESPONDENT

(BY SRI. K. NAGESHWARAPPA, HCGP-PH)

THIS CRIMINAL PETITION IS FILED UNDER SECTION 439 OF CR.P.C., PRAYING TO ENLARGE THE PETITIONER ON BAIL IN CR.NO.157/2022 OF BAGEPALLI P.S., CHICKBALLAPURA DISTRICT FOR THE OFFENCE P/U/S 376(3),506 OF IPC AND SEC.4,6,8,12,14 OF POCSO ACT 67(B) I.T ACT AND SEC.3(1)(W),3(2)(V) OF SC/ST (POA) ACT SPL.C.(POCSO)NO.74/2022 PENDING ON THE FILE OF THE HON'BLE ADDL. DISTRICT AND SESSIONS JUDGE, FTSC-1, CHIKKABALLAPURA.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

1. This petition has been filed under section 439 of Cr.P.C. for enlarging the petitioner on bail. The office has raised objections that the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SC/ST (POA) Act) have been incorporated and hence the petition is not maintainable.
2. The learned counsel for the petitioner is called out and there is no representation.
3. On pursuing the records, it is evident that charge sheet has been submitted for the offences punishable under sections 376(3), 506 of IPC and Sections 4, 6, 8, 12, 14 of the POCSO Act and under Section 17(B) of the Information Technology Act and under Section 3(1)(w) and 3(2)(v) of the SC/ST (POA) Act. As per Section 14A of SC/ST (POA) Act, an appeal shall lie against any order passed by the Special Court including judgment, sentence or otherwise order other than on an Interlocutory order. Further 14A(1)

specifies that the provisions of Cr.P.C. so far as these aspects are concerned are not applicable. Further this issue has been covered by Judgment of the Division Bench of this Court in the case of **Lokesh & others vs. The State of Karnataka & another** reported in **ILR 2021 KAR 4783** wherein it is specifically stated that when there is an appeal provision in the form of an alternative remedy, the petition under section 439 is not maintainable.

4. Under such circumstance office is justified in raising the office objections and the petition is not maintainable and remedy to the petitioner is to file an appeal challenging the order. Hence, the petition stands dismissed as not maintainable with liberty to the petitioner to approach the competent Court in accordance with law.

**Sd/-  
JUDGE**

SR