

(2020) 11 KL CK 0215
In the High Court Of Kerala
Case No : Bail Application No. 8028 Of 2020

Jerald Nepolian

APPELLANT

Vs

State Of Kerala And Anr

RESPONDENT

Date of Decision : 30-11-2020

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 438
Indian Penal Code, 1860 — Section 354A(1)(i)
Provisions Of Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act,
1989 — Section 3(1)(w)(i), 14A

Citation : (2020) 11 KL CK 0215

Hon'ble Judges : P.V. Kunhikrishnan, J

Bench : Single Bench

Advocate : Sanjana Rachel Jose, Renjith. T.R.

Final Decision : Dismissed

Judgement

1. This Bail Application filed under Section 438 of Criminal Procedure Code was heard through Video Conference.

2. Petitioner is an accused in Crime No. 1265 of 2020 of Chalakkudy Police Station. The offences alleged against the petitioner are under Section 354

A (1) (i) of IPC and the offence under 3 (1) (w) (i) of the provisions of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 1989.

It is now a settled position that if an accused is able to show that prima facie the offence under the provisions of Scheduled Castes and Scheduled

Tribes (Prevention of Atrocities) Act, is not attracted, he can file an application under Section 438 Cr.P.C. Moreover in Sharon A.S. and others Vs.

State of Kerala (2018 KHC 663), a Division Bench of this court observed that, if a bail application under Section 438 Cr.P.C is dismissed by the

Special Court, an appeal is maintainable before this Court under Section 14A of

the said Act.

In such circumstances, the petitioner can file an application under Section 438 Cr.P.C before the Special Court if he is advised so. Therefore, this Bail

Application is dismissed without going to the merit of the case, with liberty to the petitioner to file an application under Section 438 Cr.P.C before the

Special Court if he is advised so.