



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P.(MD)No.17718 of 2017

Muthupandi

... Petitioner / Accused No.1

-Vs-

State represented by
The Inspector of Police,
Silaiman Police Station,
Madurai District.

... Respondent / Complainant

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to direct the learned III Additional District and Sessions Judge (PCR Cases), Madurai, to accept the surrender and consider the recall petition for the non bailable warrant issued on 11.10.2017 in Spl.S.C.No.60 of 2017 of the petitioners / accused to be filed on the same day.

For Petitioner	: Mr. G.Karuppasamy Pandiyan
For Respondent	: Mr.K.S.Duraipandian, Additional Public Prosecutor

O R D E R

This Criminal Original Petition is filed for issuing a direction to the respondent to direct the learned III Additional District and Sessions Judge (PCR Cases), Madurai, to accept the surrender and consider the recall petition for the non bailable warrant issued on 11.10.2017 in Spl.S.C.No.60 of 2017 of the petitioners / accused to be filed on the same day.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3. It is submitted that the case was posted for hearing on 11.10.2017 before the lower court. It is stated that due to viral fever, the petitioner could not make his appearance before the III Additional District and Sessions Judge (PCR cases), Madurai, on the date of hearing. Despite the fact that the petitioner filed a petition under Section 317 of Cr.P.C, explaining his inability, it is submitted that the trial court simply dismissed the said petition and issued non bailable warrant.



4. The Learned counsel for the petitioner relied upon the judgment of this court, in the case of *A.Vijaylaxmi and another Vs State* in Crl.O.P.(MD)No.27022 of 2017 dated 06.12.2017. For the proposition that issuance of Non Bailable Warrant should be exercised with extreme caution and in the rarest of cases, bearing in mind that the pendency of Non Bailable Warrant is one of the major factors for long pendency cases before the trial court. It was stated further in the said judgment that the guidelines imposed in *Inder Mohan Gowsami's* case as well as the observations made in that particular case should be scrupulously followed by the trial court while issuing Non Bailable Warrant.

5. It is further submitted in this petition that the petitioner is ready and willing to co-operate with the trial and that his absence on 11.10.2017 is not willful or wanton. Considering the facts and circumstances of the case, this court is inclined to pass the following directions:-

"The petitioner is directed to surrender before the lower court within a period of two weeks. Upon such surrender, the learned III Additional District and Sessions Judge (PCR Cases), Madurai, is directed to recall the Non Bailable warrant issued on 11.10.2017, subject to any reasonable terms which may be required for prompt appearance of the petitioner in future."

6. Accordingly, this Criminal Original Petition is allowed.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

1. The III Additional District and Sessions Judge (PCR Cases), Madurai
2. The Inspector of Police,
Silaian Police Station, Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Pnn/am

RL/4C/2P/SKN/RSK/SAR2/11/1/2018

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