

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2019

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

Cr1.O.P.No.24835 of 2019

G.Sylu @ Sylendran

...Petitioner/Accused

Vs.

The State rep. by its
Inspector of Police,
Peerkankaranai Police Station,
Chennai District.

...Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to recall the Non Bailable Warrant dated 26.02.2019 pending against the petitioner in C.C.No.1048 of 2014 on the file of the learned Judicial Magistrate, Tambaram in Crime No.1023 of 2014 on the file of the Inspector of Police, Peerkankaranai Police Station, Chennai District.

For Petitioner : Mr.A.Yamuna

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

ORDER

This petition is filed seeking to recall the Non Bailable Warrant dated 26.02.2019 pending against the petitioner in C.C.No.1048 of 2014 on the file of the learned Judicial Magistrate, Tambaram in Crime No.1023 of 2014 on the file of the Inspector of Police, Peerkankaranai Police Station, Chennai District.

2.The learned Additional Public Prosecutor by relying on the averments made in the counter affidavit dated 26.09.2019 submitted that the petitioner herein has been detained under Act 14, 1982 on three occasions and he has been seeking to recall the Non Bailable Warrant now. According to the learned Additional Public Prosecutor, if the Non Bailable Warrant is recalled, the petitioner would indulge in similar types of offence.

3. This Court, by an earlier order dated 07.09.2017 passed in CrI.O.P.Nos.13276 of 2017, etc., had considered the scope of recalling a Non-Bailable Warrant issued by the Trial Courts. The relevant portion of the said order reads as follows:-

"20.Thus, under Section 82 of Cr.P.C., there can be no impediment on the part of the trial Court to pronounce him as a proclaimed offender, instead of keeping the matter pending indefinitely for the purpose of having the warrant executed. Hence, the existence of the fourth category of cases cannot be a ground to preclude the High Court to do justice in the first three categories particularly, when they constitute a major portion of the pending cases in the State of Tamil Nadu, in which, Non Bailable Warrants are pending execution.

21.To sum up the findings rendered by me, it is reiterated that the issuance of Bailable Warrant or 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 the long pendency of cases before the trial Court. The trial Court shall also scrupulously follow the guidelines imposed in Inder Mohan Gowsami's case (supra) as well as the observations made in the present case while issuing Non Bailable Warrants or recalling the Non Bailable Warrants."

4. By following the ratio laid down in the aforesaid order, this Court is of the view that the petitioner's request for recalling the Non-Bailable Warrant can also be considered.

5. Accordingly, the Non-Bailable Warrant dated 26.02.2019 issued against the petitioner in C.C.No.1048 of 2014 on the file of the learned Judicial Magistrate, Tambaram in Crime No.1023 of 2014 on the file of the Inspector of Police, Peerkankaranai Police Station, Chennai District is hereby recalled.

6. In view of the objections raised by the learned Additional Public Prosecutor, it is made clear that the petitioner herein shall co-operate with the proceedings pending before the trial Court and similar indulgence will not be extended in future.

7. Accordingly, the Criminal Original Petition stands allowed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

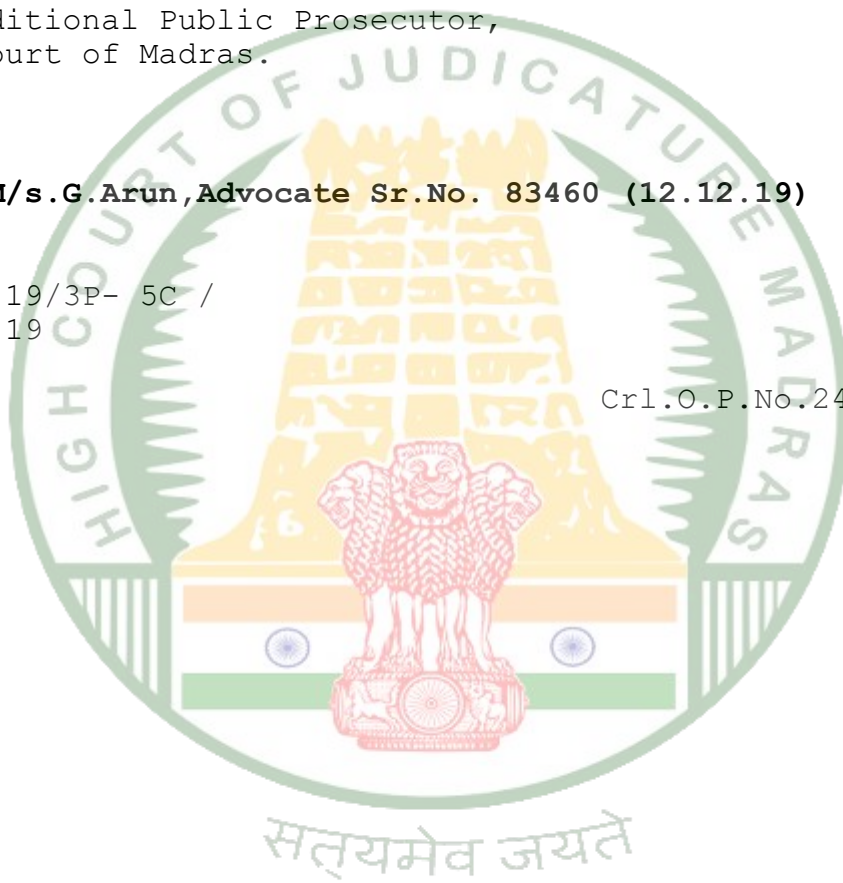
To

1. The Judicial Magistrate,
Tambaram.
2. -Do-Thro' The Chief Judicial Magistrate,
Kancheepuram.
3. The Inspector of Police,
Peerkankaranai Police Station,
Chennai District.
4. The Additional Public Prosecutor,
High Court of Madras.

+1 cc to M/s.G.Arun, Advocate Sr.No. 83460 (12.12.19)

AKM/17.10.19/3P- 5C /
AKM/01.11.19

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