



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

Cr1.O.P.No.31371 of 2019

Udhaya @ Udhya Kumar

...Petitioner

Vs

State Rep by,
The Inspector of Police,
Moolanur Police Station,
Tiruppur District.
Crime No.10 of 2009.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to direct the learned Principal District and Sessions Court, Tiruppur, to accept the surrender of the petitioner in S.C.No.86 of 2019 and consider his petition to recall the Non Bailable Warrant issued against the petitioner on 31.10.2019.

For Petitioners: Mr.C.S.Saravanan

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

O R D E R

This Criminal Original Petition is filed to direct the learned Principal District and Sessions Court, Tiruppur to recall the Non-Bailable Warrant issued against the petitioners/accused in S.C.No.86 of 2019.

2. This Court, by an earlier order dated 07.09.2017 passed in Cr1.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



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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.

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

4. Accordingly, the Non-Bailable Warrant dated 31.10.2019 issued against the petitioner in S.C.No.86 of 2019 on the file of the learned Principal District and Sessions Court, Tiruppur, is hereby recalled.

5. It is made clear that the petitioners shall henceforth co-operate by regularly attending the proceedings before the concerned Court.

6. Accordingly, the Criminal Original Petition stands allowed.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

jas/hvk

To

1.The Principal District and Sessions Judge
Tiruppur.



2.The Inspector of Police,
Moolanur Police Station,
Tiruppur District.

3.The Public Prosecutor,
High Court of Madras.

+1 CC to Mr.C.S.Saravanan, Advocate sr 97758.

Crl.O.P.No.31371 of 2019

KK(CO)
SP(27/12/2019)