



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Sixth day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP (MD) No.1001 of 2019

CHANDRA

... PETITIONER / ACCUSED NO.3

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
CBCID BRANCH, TIRUNELVELI OCU,
TIRUNELVELI DISTRICT.
CRIME NO.61/2010

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.R.RUSSEL RAJ, Advocate

For Respondent : Mr.K.SUYAMBULINGA BHARATHI,
Government Advocate(Crl.Side)

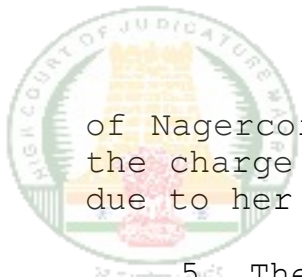
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 467, 468, 471, 420 and 120B of I.P.C. in Cr.No.61 of 2010 on the file of the respondent police, seeks anticipatory bail.

2.It is the case of the prosecution that the de-facto complainant purchased a car for a sum of Rs.6,40,000/- from the accused after giving Rs.2,00,000/- as advance. The said car was stated to be purchased by the second and third accused by way of hire for a sum of Rs.5,40,000/-. The de-facto complainant paid Rs.3,20,600/- to the credit of the petitioner's account and paid Rs.1,19,000/- to the credit of the second accused account. However, the accused have not remitted the remaining installments amount to the Bank as agreed. Thereafter, persons from ICICI Bank took the said car by force. The accused by creating a fabricated document, sold the car to the de-facto complainant. Hence, the complaint.

3.The learned Counsel for the petitioner would submit that A1 is the mother and other accused are her sons and they were granted anticipatory bail by this Court on 03.03.2011. However, the petitioner could not surrender before the concerned Court as directed by this Court, because the de-facto complainant is a member



of Nagercoil Bar Association and also practicing advocate. However, the charge sheet filed against the petitioner is civil in nature and due to her non-appearance, NBW was issued.

5. The learned Additional Public Prosecutor appearing for the State would submit that the petition before this Court is not maintainable, unless she exhausts the remedy available under the Criminal Procedure Code.

6. In view of the above position, the relief available to the petitioner is to surrender before the learned Magistrate concerned and file a petition U/s. 70(2) of Cr.P.C. to recall the Non Bailable Warrant of Arrest issued against her. Therefore, the question of granting anticipatory bail does not at all arise.

7. Considering the fact that the non-bailable warrant is pending against the petitioner, the petitioner is directed to surrender before the trial Court i.e., learned Judicial Magistrate No.I, Nagercoil, Kanyakumari and file a petition under Section 70(2) of Cr.P.C., to recall the non bailable warrant. On filing of such petition, the learned Judicial Magistrate No.I, Nagercoil, Kanyakumari, is directed to consider the said petition on merits and pass order on the same day.

8. Accordingly, this criminal original petition is disposed of.

sd/-

06/02/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE JUDICIAL MAGISTRATE NO.I, NAGERCOIL,
KANYAKUMARI DISTRICT.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,
CBCID BRANCH, TIRUNELVELI OCU, TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.R.RUSSEL RAJ Advocate SR.No.2504

ORDER IN

CRL OP(MD) No.1001 of 2019

Date :06/02/2019

MS/PN/SAR-1/13.02.2019/2P.6C