



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

Monday, the Fourth day of March Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP (MD) No.3304 of 2019

PRABAKARAN,

... PETITIONER / ACCUSED
RANK NOT KNOWN

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
DEVAKOTTAI TALUK POLICE STATION,
SIVAGANGAI DISTRICT.
(CRIME NO.292/2015)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.K.M.KARUNAKARAN Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI,
Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

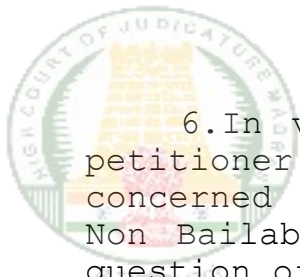
The petitioner, who apprehends arrest for the alleged offences under Sections 147, 294(b), 323 and 506(ii) of IPC and Section 4 of Tamilnadu Prohibition of Harassment of Women Act in Crime No.292 of 2015, on the file of the respondent police, seeks anticipatory bail.

2. Heard both sides.

3.The case was taken up on the file of the Judicial Magistrate, Devakottai, in C.C.No.65 of 2016. Due to the non appearance of the petitioner on the last hearing, the learned Judicial Magistrate has issued non bailable warrant against him on 27.04.2017.

4.The learned counsel for the petitioner would submit that the absence of the petitioner on the last hearing is neither willful nor wanton and only due to the unavoidable situation and prays to grant of anticipatory bail to the petitioner.

5. The learned Government Advocate (Crl. Side) appearing for the State would submit that the petition before this Court is not maintainable, unless he exhaust 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 Judicial Magistrate concerned and file a petition U/s. 70(2) of Cr.P.C. to recall the Non Bailable Warrant of Arrest issued against him. 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, Devakottai 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, Devakottai, 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/-
04/03/2019

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE,
DEVAKOTTAI.
 2. DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
 3. THE INSPECTOR OF POLICE,
DEVAKOTTAI TALUK POLICE STATION,
SIVAGANGAI DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to MR.K.M.KARUNAKARAN Advocate SR.No.4231

ORDER
IN
CRL OP(MD) No.3304 of 2019
Date : 04/03/2019

AE/JC/SAR-II/07.03.2019/2P/6C