



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

Tuesday, the Fifth day of March Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.3302 of 2019

VELAPPAN

...PETITIONER / ACCUSED No.1

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
MOOLAKARAIPATTY POLICE STATION,
TIRUNELVELI DISTRICT.
Crime No.56/2017

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.M.SIVA SANKAR 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 :-

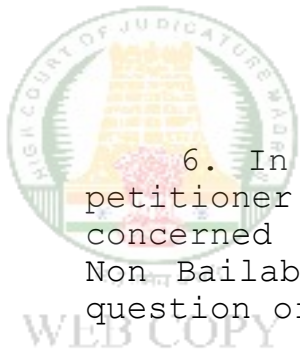
The petitioner, who apprehends arrest for the alleged offences under Sections 120(B), 449, 302, 379 of IPC r/w.34, 114 of IPC in Crime No. 56 of 2017 (S.C.No.149 of 2018), on the file of the respondent police, seeks anticipatory bail.

2. Heard both sides.

3.The case was taken up on the file of the learned III Additional Sessions Judge, Tirunelveli in S.C.No.149 of 2018. Due to the non appearance of the petitioner on the last hearing, the learned Sessions Judge has issued non bailable warrant against him on 10.09.2018.

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 Sessions Judge 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 III Additional Sessions Judge, Tirunelveli 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 III Additional Sessions Judge, Tirunelveli 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/-
05/03/2019

/ TRUE COPY /

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

TO

1. THE III ADDITIONAL SESSIONS JUDGE,
TIRUNELVELI.

2. THE INSPECTOR OF POLICE
MOOLAKARAIPATTY POLICE STATION,
TIRUNELVELI DISTRICT.

3. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.M.SIVA SANKAR Advocate SR.No.4261

ORDER
IN
CRL OP(MD) No.3302 of 2019
Date :05/03/2019

TK/MMS/SAR-4/05.03.2019/2P/5C