



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.3303 of 2019

KOMBAIAH,

... PETITIONER /SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE,
ERWADI POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.92/2014)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.S.SATHYA CHIDAMBARAM Advocate

For Respondent : MR.K.SUYMABULINGA 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 294(b), 307 and 506(ii) of IPC in Crime No.92 of 2014, on the file of the respondent police, seeks anticipatory bail.

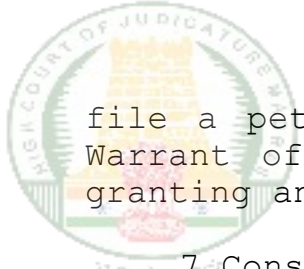
2. Heard both sides.

3.The case was taken up on the file of the Sub Judge, Valliyoor, Tirunelveli District, in S.C.No.424 of 2014. Due to the non appearance of the petitioner on the last hearing, the learned Judicial Magistrate has issued non bailable warrant against him.

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 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 Sub Judge, Valliyoor, Tirunelveli District 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 Sub Judge, Valliyoor, Tirunelveli District, 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 SUBORDINATE JUDGE,
VALLIYOOR, TIRUNELVELI DISTRICT.
2. THE INSPECTOR OF POLICE,
ERWADI POLICE STATION,
TIRUNELVELI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to MR.S.SATHYA CHIDAMBARAM Advocate SR.No.4210

ORDER
IN
CRL OP(MD) No.3303 of 2019
Date : 04/03/2019

AE/JC/SAR-II/07.03.2019/2P/5C