



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

Thursday, the Seventh day of March Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.3480 of 2019

MOHAMED IBRAHIM

... PETITIONER / 1st ACCUSED

Vs

STATE THROUGH
THE INSPECTOR OF POLICE
ERUVADI POLICE STATION,
TIRUNELVELI DISTRICT
Crime No.108/2014

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.C.SUSIKUMAR Advocate

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

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

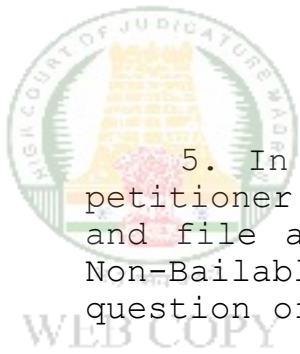
ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 147, 294 (b), 353, 506(ii), 307 and 379 of IPC, in Cr.No.108 of 2014 on the file of the respondent police, seeks anticipatory bail.

2.The petitioner was absent during the trial in S.C.No. 176 of 2016 before the learned Sub Judge, Valliyoor. Therefore, Non-Bailable Warrant came to be issued on 16.02.2017.

3.The learned counsel for the appearing for the petitioner submitted that due to illness, the petitioner could not appear before the learned Sub Judge, Valliyoor and therefore, Non-Bailable Warrant was issued against him on 16.02.2017. He further submitted that the act of the petitioner is neither wilful nor wanton and prays for anticipatory bail to the petitioner.

4.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.



5. In view of the above position, the relief available to the petitioner is to surrender before the learned Sub Judge, Valliyoor and file a petition under Section 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.

6. 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 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, is directed to consider the said petition on merits and pass orders on the same day.

7. Accordingly, this Criminal Original Petition is disposed of.

sd/-
07/03/2019

/ TRUE COPY /

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

TO

1. THE SUBORDINATE JUDGE,
VALLIYOOR.

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

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

+1. CC to Mr.C.SUSIKUMAR Advocate SR.No.4546

ORDER
IN
CRL OP(MD) No.3480 of 2019
Date : 07/03/2019

TK/PN/SAR-4/18.03.2019/2P/5C