



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

Monday, the First day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.4870 of 2019

1 KUMARAVEL

2 LETSUMI @ MAHALAKSHMI BAVANI

... PETITIONERS / ACCUSED 1 & 2

Vs

STATE REP.BY,
THE SUB INSPECTOR OF POLICE
KOTTAR POLICE STATION,
KANYAKUMARI DISTRICT,
CR NO. 111/2017

... RESPONDENT / COMPLAINANT

For Petitioners : MR.B.BRIJESH KISHORE 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 petitioners, who apprehends arrest for the alleged offences under Section 420 of IPC in connection with Non-Bailable Warrant issued in C.C No. 293 of 2018 on the file of the learned Judicial Magistrate, No.II, Nagercoil, seek anticipatory bail.

2.The petitioner was absent during the trial in C.C No. 293 of 2018 on the file of the learned Judicial Magistrate, No.II, Nagercoil, Therefore, Non-Bailable Warrant came to be issued on 12.02.2019.

3.The learned counsel appearing for the petitioner submitted that the first petitioner was not in station and was engaged in official work and the second petitioner was aged and she cannot move anywhere without the assistance of her son, who is the first petitioner. Due to this reason, the petitioners could not appear before the learned Judicial Magistrate, No.II, Nagercoil, and therefore, Non-Bailable Warrant was issued against them on 12.02.2019. He further submitted that the act of the petitioners are neither willful nor wanton and prays for anticipatory bail to the petitioners.



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 petitioners are to surrender before the learned learned Judicial Magistrate, No.II, Nagercoil, and file a petition under Section 70 (2) of Cr.P.C., to recall the Non-Bailable Warrant of Arrest issued against them. 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 petitioners, the petitioners are directed to surrender before the trial Court i.e., learned Judicial Magistrate, No.II, Nagercoil, 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.II, Nagercoil, 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/-
01/04/2019

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE NO II
NAGERCOIL
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
KANIYAKUMARI DISTRICT AT NAGERCOIL
- 3 THE SUB INSPECTOR OF POLICE
KOTTAR POLICE STATION,
KANYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to MR.B.BRIJESH KISHORE Advocate SR.No.5896

ORDER
IN
CRL OP(MD) No.4870 of 2019
Date :01/04/2019