



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

Friday, the Fifth day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.5195 of 2019

MATHIBALA

... PETITIONER / ACCUSED NO.1

Vs

STATE REP. BY
THE SUB INSPECTOR OF POLICE,
THIRUPATHUR TOWN POLICE STATION,
SIVAGANGAI DISTRICT.
CRIME NO.14 OF 2016

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.P.KRISHNAVENI 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 petitioner, who apprehends arrest for the alleged offences under Section 379 of IPC in connection with Non-Bailable Warrant issued in C.C.No.90 of 2016, on the file of the learned Judicial Magistrate, Thiruppathur, seeks anticipatory bail.

2.The petitioner was absent during the trial in C.C.No.90 of 2016 before the learned Judicial Magistrate, Thiruppathur. Therefore, Non-Bailable Warrant came to be issued on 07.12.2017.

3.The learned counsel for the appearing for the petitioner submitted that due to illness, the petitioner could not appear before the learned Judicial Magistrate, Thiruppathur and therefore, Non-Bailable Warrant was issued against him on 07.12.2017. 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 learned Judicial Magistrate , Thiruppathur 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 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 Judicial Magistrate, Thiruppathur 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, Thiruppathur, 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/-
05/04/2019

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE,
THIRUPPATHUR.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.

3 THE SUB INSPECTOR OF POLICE,
THIRUPATHUR TOWN POLICE STATION,
SIVAGANGAI DISTRICT.

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

+1 CC to M/s.P.KRISHNAVENI, Advocate (SR-6268[I] dated 05/04/2019)

ORDER
IN
CRL OP(MD) No.5195 of 2019
Date :05/04/2019

JM/PN/SAR 2/11.04.2019/2P/6C