



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

Wednesday, the Tenth day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.5375 of 2019

VIJAY

... PETITIONER / 1st ACCUSED

Vs

STATE REP. BY,
THE INSPECTOR OF POLICE
NITHIRA VILAI POLICE STATION,
KANYAKUMARI DISTRICT
(CRIME NO.151 of 2014)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.M.R.SREENIVASAN 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 Sections 452, 294(b), 323 and 506(ii) of IPC in Crime No.151 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 Judicial Magistrate No.II, Kuzhithurai, in C.C.No.33 of 2015. 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.

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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., Judicial Magistrate Court No.II, Kuzhithurai, 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, Kuzhithurai, 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/-
10/04/2019

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

TO

- 1 THE JUDICIAL MAGISTRATE NO II
KUZHITHURAI, KANIYAKUMARI DISTRICT
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
KANIYAKUMARI DISTRICT AT NAGERCOIL
 - 3 THE INSPECTOR OF POLICE
NITHIRA VILAI POLICE STATION,
KANYAKUMARI DISTRICT
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to MR.M.R.SREENIVASAN Advocate SR.No.6527

ORDER
IN
CRL OP(MD) No.5375 of 2019
Date :10/04/2019

MSI/VR/SAR 3/11.04.2019/2P-6C