



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

Wednesday, the Tenth day of April Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.5397 of 2019

STEPHENRAJ

... PETITIONER / ACCUSED NO.8

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
KALIAKKAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.
(CRIME NO.520/2008)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.S.SIVAKUMAR 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 for the alleged offences under Sections 147, 285 of IPC in Crime No.520 of 2008, on the file of the respondent police, seeks anticipatory bail.

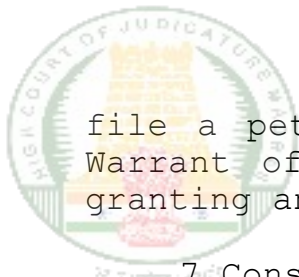
2. Heard both sides.

3.The case was taken up on the file of the Judicial Magistrate No.I, Kuzhithurai, in S.T.C.No.368 of 2009. 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., Judicial Magistrate Court No.I, 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.I, 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

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE NO-I,
KUZHITHURAI.
- 2 THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI AT NAGERCOIL.
- 3 THE INSPECTOR OF POLICE,
KALIAKKAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.
- 4 ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.S.SIVAKUMAR Advocate SR.No.6546

PS/VR/SAR-3/12.04.2019/2P/6C

ORDER
IN
CRL OP(MD) No.5397 of 2019
Date :10/04/2019