



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.5433 of 2019

CHRISTINA MADAN KUMAR

... PETITIONER / SOLE ACCUSED

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE
ANNANAGAR POLICE STATION,
MADURAI CITY.

... RESPONDENT / EXECUTOR

For Petitioner : MR.M.SOLAISAMY 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 :-

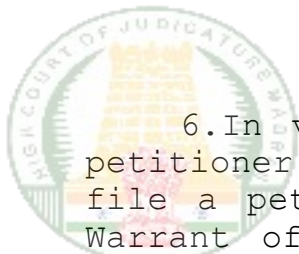
The petitioner, who apprehends arrest pursuant to the Non Bailable Warrant issued by the Judicial Magistrate No.II, Dindigul in C.C.No.329 of 2016, seeks anticipatory bail.

2. Heard both sides.

3.The case was taken up on the file of the Judicial Magistrate No.II, Dindigul in C.C.No.329 of 2016. 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 accused was convicted and sentenced to undergo 6 months imprisonment in the above said case and on the date of judgment since he was not appeared before the trial Court, the non bailable warrant came to be issued. However, 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.

WEB COPY

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, Dindigul and file a petition under Section 70(2) of Cr.P.C., to recall the non bailable warrant and answer the question of sentence. On filing of such petition, the learned Judicial Magistrate No.II, Dindigul 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-II,
DINDIGUL.
- 2 THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL.
- 3 THE INSPECTOR OF POLICE
ANNANAGAR POLICE STATION, MADURAI CITY.
- 4 ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.M.SOLAISAMY Advocate SR.No.6473

PS/VR/SAR-3/16.04.2019/2P/6C

ORDER
IN
CRL OP(MD) No.5433 of 2019
Date :10/04/2019