



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

Wednesday, the Twenty Fourth day of April Two Thousand Nineteen

PRESENT

WEB COPY

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.5887 of 2019

ARUNKUMAR

... PETITIONER / ACCUSED

Vs

STATE REP. BY  
THE INSPECTOR OF POLICE,  
JAIHINDPURAM POLICE STATION (L & O),  
MADURAI CITY.  
CRIME NO.187 OF 2018

... RESPONDENT / COMPLAINANT

For Petitioner : MR.P.BASKAR 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 11(4),12 of Protection of Child from Sexual Offences Act 2012 r/w.392 of IPC in connection with Non-Bailable Warrant issued in Spl.S.C.No.31 of 2018, on the file of the learned Assistant Sessions Judge, Mahalir Neethimandram, Madurai, seeks anticipatory bail.

2.The petitioner was absent during the trial in Spl.S.C.No.31 of 2018 before the learned Assistant Sessions Judge, Mahalir Neethimandram, Madurai Therefore, Non-Bailable Warrant came to be issued on 22.10.2018.

3.The learned counsel for the appearing for the petitioner submitted that due to illness, the petitioner could not appear before the learned Assistant Sessions Judge, Mahalir Neethimandram, Madurai and therefore, Non-Bailable Warrant was issued against him on 22.10.2018. 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 Assistant Sessions Judge, Mahalir Neethimandram, Madurai 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 at all 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 Assistant Sessions Judge, Mahalir Neethimandram, Madurai, 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 Assistant Sessions Judge, Mahalir Neethimandram, Madurai, 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/-  
24/04/2019

/ TRUE COPY /

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

TO

1 THE ASSISTANT SESSIONS JUDGE,  
MAHALIR NEETHIMANDRAM, MADURAI.

2 THE INSPECTOR OF POLICE,  
JAIHINDPURAM POLICE STATION (L & O),  
MADURAI CITY.

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

+1 CC to M/s.P.BASKAR, Advocate ( SR-7170[I] dated 24/04/2019 )

ORDER  
IN  
CRL OP(MD) No.5887 of 2019  
Date :24/04/2019

JM/JC/SAR 1/02.05.2019/2P/5C