



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

Thursday, the Twenty Fifth day of April Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.6012 of 2019

DIRAVIYAM

... PETITIONER / SOLE ACCUSED

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
CUMBUM SOUTH POLICE STATION,
THENI DISTRICT,
CRIME NO.220/2013

... RESPONDENT / RESPONDENT

For Petitioner : MR.N.RANJITH 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 279, 324, 307 of IPC and Section 4 of TNPHW Act in connection with Non-Bailable Warrant issued in S.C.No.2 of 2015, on the file of the Additional Sessions Mahila Court, Theni, seeks anticipatory bail.

2.The petitioner was absent during the trial in S.C.No.2 of 2015 before the Additional Sessions Mahila Court, Theni. Therefore, Non-Bailable Warrant came to be issued on 29.11.2016.

3.The learned counsel for the appearing for the petitioner submitted that due to illness, the petitioner could not appear before the Additional Sessions Mahila Court, Theni and therefore, Non-Bailable Warrant was issued against him on 29.11.2016. 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 Additional Sessions Mahila Court, Theni 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., Additional Sessions Mahila Court, Theni, and file a petition under Section 70(2) of Cr.P.C., to recall the non bailable warrant. On filing of such petition, the Additional Sessions Mahila Court, Theni, 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/-
25/04/2019

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

TO

1 THE ADDITIONAL SESSIONS MAHILA JUDGE,
THENI.

2 THE INSPECTOR OF POLICE,
CUMBUM SOUTH POLICE STATION,
THENI DISTRICT.

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

+1 CC to M/s.N.RANJITH, Advocate (SR-7490[I] dated 27/04/2019)

ORDER
IN
CRL OP(MD) No.6012 of 2019
Date :25/04/2019

JM/JC/SAR 3/03.05.2019/2P/5C