



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

Saturday, the Twenty Seventh day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.6157 of 2019

MUTHIAH

... PETITIONER / ACCUSED No.1

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
TIRUNELVELI TOWN POLICE STATION,
TIRUNELVELI CITY.
Crime No.482/15

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.S.SUNDARPANDIAN Advocate

For Respondent : Mr.S.CHANDRASEKAR, Additional Public Prosecutor

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 120(b),109,114, 341, 294(b), 302, 506(ii) of IPC r/w.34 of IPC in connection with Non-Bailable Warrant issued in S.C.No.577 of 2016, on the file of the III Additional District Court, Tirunelveli, seeks anticipatory bail.

2.The petitioner was absent during the trial in S.C.No.577 of 2016 before the III Additional District Court, Tirunelveli Therefore, Non-Bailable Warrant came to be issued on 03.12.2018.

3.The learned counsel for the appearing for the petitioner submitted that due to illness, the petitioner could not appear before the III Additional District Court, Tirunelveli and therefore, Non-Bailable Warrant was issued against him on 03.12.2018. 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 III Additional District Court, Tirunelveli 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., III Additional District Court, Tirunelveli, and file a petition under Section 70(2) of Cr.P.C., to recall the non bailable warrant. On filing of such petition, the III Additional District Court, Tirunelveli, 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/-
27/04/2019

/ TRUE COPY /

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

TO

1. THE III ADDITIONAL DISTRICT JUDGE,
TIRUNELVELI.

2. THE INSPECTOR OF POLICE,
TIRUNELVELI TOWN POLICE STATION,
TIRUNELVELI CITY.

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

+1. CC to Mr.S.SUNDARPANDIAN Advocate SR.No.7644

ORDER
IN
CRL OP(MD) No.6157 of 2019
Date : 27/04/2019

TK/MMS/SAR-1/29.04.2019/2P/5C