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

Date : 18/08/2020

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . No.8504 of 2020

Christober @ Krishnakumar @ Kishor Kumar ... Petitioner/Accused No.2

Vs

The State rep.by
The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
Crime No. 504/2014.

... Respondent/Complainant

For Petitioner : Mr. S.Sivakumar,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.504 of 2014 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioner/2nd accused, who apprehends arrest for the alleged offences under Sections 294(b), 323 and 324 of IPC, in connection with Non-Bailable Warrant issued in C.C.No.127 of 2015, on the file of the learned Judicial Magistrate No.I, Kuzhithurai, seeks anticipatory bail.

2.The petitioner was absent during the trial in C.C.No.127 of 2015 before the learned Judicial Magistrate No.I, Kuzhithurai. Therefore, Non-Bailable Warrant came to be issued on 17.07.2017.

3.The learned counsel for the appearing for the petitioner submitted that due to illness, the petitioner could not appear



before the learned Judicial Magistrate No.I, Kuzhithurai and therefore, Non-Bailable Warrant was issued against him on 17.07.2017. He further submitted that the act of the petitioner is neither wilful nor wanton and prays for anticipatory bail to the petitioner.

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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 Judicial Magistrate No.I, Kuzhithurai and file a petition under Section 70(2) of Cr.P.C., to recall the Non-Bailable Warrant 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 Judicial Magistrate 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 orders on the same day.

7.Accordingly, this Criminal Original Petition is disposed of.

sd/-

18/08/2020

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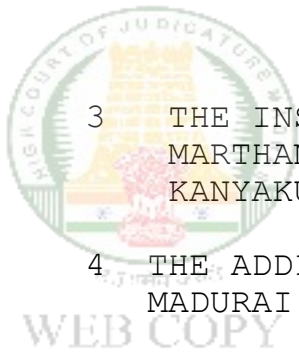
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1 THE JUDICIAL MAGISTRATE NO.I,
KUZHITHURAI.

2 DO-THROUGH :THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.



3 THE INSPECTOR OF POLICE,
MARTHANDAM POLICE STATION,
KANYAKUMARI DISTRICT.

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

ORDER

IN

CRL OP(MD) No.8504 of 2020

Date :18/08/2020

SJI

AE/AKM/SAR-II (20.08.2020) 3P 5C