



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

Date : 17/08/2020

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD). No.8483 of 2020

Radhakrishnan

... Petitioner/Accused No.12

Vs

The State rep.by
The Inspector of Police,
Puthukadai Police Station,
Kanniyakumari District.
Crime No.203 of 2015.

... Respondent/Complainant

For Petitioner : M/s 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 P.R.C.No.15 of 2017 on the file of the
Judicial Magistrate No.2, Kuzhithurai.

ORDER : The Court made the following order :-

The petitioner/Accused No.12, who apprehends arrest for the
alleged offences under Sections 286, 304(ii) of IPC and 3,5 and 6 of
Explosive Substances Act, in connection with Non-Bailable Warrant
issued in P.R.C.No.15 of 2017, on the file of the learned Judicial
Magistrate No.II, Kuzhithurai, seeks anticipatory bail.

2.The petitioner was absent during the trial in P.R.C.No.15 of
2017 before the learned Judicial Magistrate No.II, Kuzhithurai.
Therefore, Non-Bailable Warrant came to be issued on 12.10.2018.

3.The learned counsel appearing for the petitioner submitted
that due to illness, the petitioner could not appear before the
learned Judicial Magistrate No.II, Kuzhithurai and therefore, Non-
Bailable Warrant was issued against him on 12.10.2018. 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 Judicial Magistrate No.II, Kuzhithurai 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 Judicial Magistrate No.II, 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.II, 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/-
17/08/2020

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/08/2020
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 II, KUZHITHURAI.
2. DO THROUGHT THE CHIEF JUDICIAL MAGISTRATE,
KANNIYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,
PUTHUKADAI POLICE STATION,
KANNIYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL OP(MD) No.8483 of 2020
Date : 17/08/2020

SJI

<https://hccvjce669a.gov.in/cases/2020/2P/5C>