

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Fifth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.4514 of 2021

ZAILDAR SINGH

[PETITIONER / ACCUSED]

Vs

THE STATE REP.BY
INSPECTOR OF POLICE,
PERIYAPALAYAM POLICE STATION,
THIRUVALLUR DISTRICT.
CR.NO.10 OF 2005.

[RESPONDENT / COMPLAINANT]

For Petitioner : M/S. R.SANKARASUBBU Advocate

For Respondent : M/S. S.KARTHIKEYAN, 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 at the hands of the respondent police for the offences punishable under Sections 396 of I.P.C, in Crime No.10 of 2005, seeks anticipatory bail.

2. There are totally 18 accused in this case and the petitioner herein is A4. It is alleged that the petitioner along with other accused committed robbery and murder. The occurrence had taken place in the year 2005 thereafter, the petitioner was arrested and released on bail. Subsequently the petitioner failed to appear before the Trial Court, thereby NBW was issued against him and now he has filed this present application seeking anticipatory bail.

3. Mr. R. Sankarasubbu learned counsel appearing for the petitioner would submit that the occurrence is of the year 2005 and the final report was filed and the matter was taken cognizance in the year 2008 and the petitioner was regularly appearing before the Court and due to illness he was not able to appear before the trial court on the last hearing date, hence the learned Trial Judge has issued non bailable warrant against him. He would further submit that now the petitioner is ready and willing to co-operate with the trial and he is willing to abide by any stringent conditions to be

imposed by this Court and seeking anticipatory bail.

4. The learned Additional Public Prosecutor would submit that there are totally 18 accused in this case out of which only 5 accused are available and the other accused were split up and the trial was also commenced. Now during the course of trial only 5 accused are available. He would further submit that the petitioner is having 4 previous cases and one is pending before the 15th Additional Sessions Court, Chennai and now transferred to 17th Additional Sessions, Chennai, for which the petitioner has filed the present application seeking anticipatory bail. He would further submit that the matter is posted for trial on 15.03.2021. He also submitted that when NBW is pending against the petitioner the accused can file a petition under Section 70(ii) of Cr.P.C., to recall NBW and the concerned learned Trial Judge can dispose the same on merits.

5. I have considered the rival submissions and perused all the records. It is seen that the occurrence has taken place in the year 2005 and the matter is pending for more than 16 years and out of the 18 accused only 5 accused are available for trial. When the trial was commenced the petitioner did not appear before the concerned court hence, NBW was issued against him. Normally when Non-bailable warrant is pending against the petitioner, this Court does not incline to grant anticipatory bail to the petitioner. However, the petitioner is directed to appear before the 15th Additional Sessions Court, Chennai on 15.03.2021 and to file a petition under Section 70(ii) of Cr.P.C., to recall NBW pending against him, after issuing advance notice to the public prosecutor. On filing of a petition u/s 70(ii) of Cr.P.C. petition, the concerned Magistrate, is directed to consider the same on merits and pass orders on the same day.

-sd/-

05/03/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

WEB COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE 15th ADDITIONAL SESSIONS
COURT, CHENNAI.

2 THE 17th ADDITIONAL SESSIONS
COURT, CHENNAI.

<https://hcservices.ecourts.gov.in/hcservices/>

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

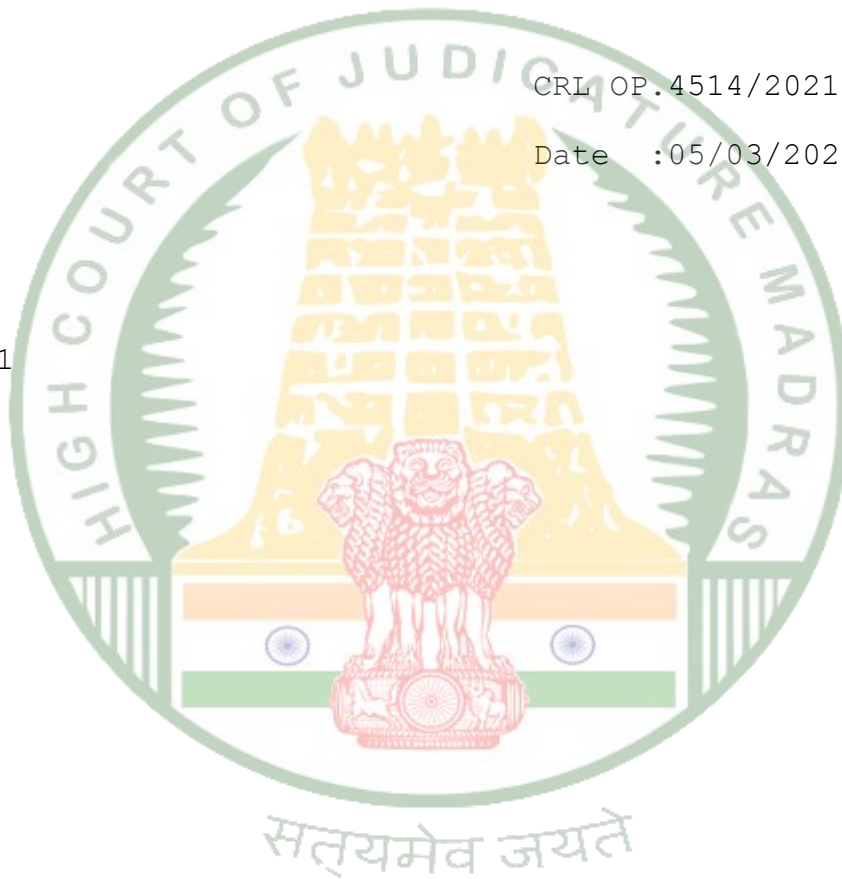
4 THE INSPECTOR OF POLICE,
PERIYAPALAYAM POLICE STATION,
THIRUVALLUR DISTRICT.

+1 CC to M/S. R.SANKARASUBBU Advocate on payment of necessary
charges SR NO. 2946

CRL OP.4514/2021

Date :05/03/2021

MN-10/03/2021



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