

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Friday, the Ninth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.5892 of 2021

S.DHINESH

[PETITIONER / ACCUSED]

Vs

THE STATE REP.BY [RESPONDENT/COMPLAINANT]
THE INSPECTOR OF POLICE,
NIB-CID VELLORE POLICE STATION,
VELLORE DISTRICT.
CRIME NO.37/2018.

For Petitioner : M/S.T.MURUGANANTHAM Advocate

For Respondent : MR.K.PRABAKAR, 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 alleged offence under Sections 8 (c) and 20 (b) (ii) (c) of NDPS Act in C.C.No.2 of 2019 on the file of the learned Special Court for E.C.Act Cases, Salem, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is facing trial for the offence under Sections 8 (c) and 20(b) (ii) (c) of NDPS Act in C.C.No.2 of 2019 before the learned Special Court for E.C.Act Cases, Salem and since he did not appear before the Court, non bailable warrant was issued against him.

3.The learned counsel appearing for the petitioner would submit that since the petitioner suffered ill health, he could not appear before the lower Court and hence non bailable warrant was issued against him. However, his non appearance is neither wilful nor wanton.

4.The learned Additional Public Prosecutor would submit that since the petitioner did not appear before the Court, non bailable warrant was issued against him.

5. In view of the above position, this Court is of the opinion that the relief available to the petitioner is to surrender before the learned Magistrate concerned and to 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 non-bailable warrant is pending against the petitioner, the petitioner is directed to surrender before the trial Court i.e., learned Special Court for E.C.Act Cases, Salem 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 Special Court for E.C.Act Cases, Salem, 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/-

09/04/2021

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

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

TO

1. THE SPECIAL COURT FOR
EC ACT CASES, SALEM.

2. THE INSPECTOR OF POLICE,
NIB-CID VELLORE POLICE STATION,
VELLORE DISTRICT.

3. THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.T.MURUGANANTHAM Advocate on payment of necessary charge

CRL OP.5892/2021

Date : 09/04/2021

TK/26.04.2021