



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Sixth day of October Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.19952 of 2021

SATHEESH @ SIVASOORIYAN

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ATTUR, SALEM DISTRICT.
CRIME NO.19/2017.

[RESPONDENT]

For Petitioner : M/S.S.SATHEESHKUMAR Advocate

For Respondent : M/S. C.E.PRATAP, Govt. Advocate (Crl. Side)

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 offence under Section 451, 342, 363, 366 of I.P.C. & 9 of POCSO Act 2006 & 6 r/w 5(1) of POCSO Act 2012 in Crime.No.19/2017 in New Spl.S.C.No.169 of 2019 on the file of the Sessions Judge, POCSO Courts, Salem seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is facing trial for the offence under Section 451, 342, 363, 366 of I.P.C. & 9 of POCSO Act 2006 & 6 r/w 5(1) of POCSO Act 2012 in Crime.No.19/2017 in New Spl.S.C.No.169 of 2019 on the file of the Sessions Judge, POCSO Courts, Salem and since he did not appear before the Court on 16.09.2021, non bailable warrant was issued against him.

3.The learned counsel appearing for the petitioner would submit that since the petitioner is working as a labour in Bangalore, he could not appear before the lower Court on 16.09.2021 and hence non bailable warrant was issued against him. He further submitted that for mere non appearance on a single day, issuing NBW for securing the petitioner is wholly unsustainable. In view of the above, this Court may pass appropriate orders in line with the said orders.



However, his non appearance is neither wilful nor wanton.

4. The learned Government Advocate (Cr.Side) would submit that since the petitioner did not appear before the Court on 16.09.2021, 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 Sessions Judge, POCSO Courts, 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 Sessions Judge, POCSO Courts, 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/-
26/10/2021

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 SESSIONS JUDGE,
POCSO COURTS,
SALEM.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ATTUR, SALEM DISTRICT.



3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.S.SATHEESHKUMAR Advocate on payment of necessary
charges SR.No.11819

CRL OP.19952/2021

Date :26/10/2021

APN 01/11/2021