



IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Tuesday, the Sixteenth day of November Two Thousand Twenty One

PRESENT

The Hon`ble Mrs Justice T.V.THAMILSELVI

CRIMINAL ORIGINAL PETITION No.21480 of 2021

SURESH @ SIVAKUMAR

[ PETITIONER / ACCUSED ]

Vs

STATE REP BY

[ RESPONDENT ]

THE INSPECTOR OF POLICE,  
KARUVEPPILANKURICHI POLICE STATION,  
CUDDALORE DISTRICT.  
CR.NO.31/2014.

For Petitioner : M/S.DAVID TYAGARAJ Advocate

For Respondent : M/S.N.S.SUGANTHAN, 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 at the hands of the respondent police for the alleged offences under Sections 294B, 323, 324, 354 of I.P.C in C.C.No.197 of 2015, on the file of the Judicial Magistrate-II, Vridhachalam. Hence, seeks anticipatory bail.

2.The case of the prosecution is that, the petitioner is facing trial for the offence under Sections 294B, 323, 324, 354 of IPC in C.C.No.197 of 2015 on the file of the learned Judicial Magistrate No.II, Vridhachalam, and since he did not appear before the Court on 16.08.2021, non bailable warrant was issued against him.

3.The learned counsel appearing for the petitioner would submit that the petitioner was already arrested in Crime No.31 of 2014 for the offence under Sections 294B, 323, 324, 354 of I.P.C. He further submits that, since he is admitted in the hospital and taking treatment for Viral fever from 15.08.2021 to 04.09.2021, therefore, he could not appear before the concerned Court on 16.08.2021 and hence, non bailable warrant was issued against the petitioner. However, his non appearance is neither wilful nor wanton.

4.The learned Government Advocate (Crl.Side) would submit that, since the petitioner did not appear before the Court on 16.08.2021, non bailable warrant was issued against the petitioner.



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 the petitioner. 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 herein is directed to surrender before the trial Court i.e., Judicial Magistrate No.II, Virudhachalam, within a period of two weeks 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, Virudhachalam, 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/-  
16/11/2021

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 JUDICIAL MAGISTRATE,  
NO.II, VIRUDHACHALAM.

2 THE CHIEF JUDICIAL MAGISTRATE  
CUDDALORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,  
KARUVEPPILANKURICHI POLICE STATION,  
CUDDALORE DISTRICT.

+2 CC to M/S.DAVID TYAGARAJ Advocate on payment of necessary  
charges SR.NO.12823

CRL OP.21480/2021

Date :16/11/2021