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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

CORAM

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.23260 of 2021

1. Mr.G.Prasad Kumar
2. Mr.R.D.Sekar

... Petitioners

Vs.

State Rep. by
The Inspector of Police,
Mannargudi Town Police Station,
Thiruvarur District.
Crime No.87 of 2016

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., praying to enlarge the petitioners on bail in the event of their arrest in pursuance of non bailable warrant dated 11.10.2021 pending trial in C.C. No. 01 of 2017, on the file of the learned Judicial Magistrate, Mannargudi.

For Petitioners: Mr.M.A.Muthalakan

For Respondent : Mr.A.Gokulakirshnan
Additional Public Prosecutor

ORDER

The petitioners who apprehend arrest at the hands of the respondent police for the alleged offence under Sections 147, 406, 420, 294 (b), 506 (2) of IPC in C.C.No.01 of 2017, on the file of the Judicial Magistrate Court, Mannargudi, seek anticipatory bail.

2. The case of the prosecution is that petitioners along with others given a false promise to the defacto complainant, for getting a seat in political party to contest in Trichy Assembly Election , for that they demanded a sum of Rs. 10,00,000/- from the defacto complainant, following which, the defacto complainant paid an advance amount of Rs.50,000/- on 27.01.2016. Later on, suspicion over the petitioners/accused, the defacto complainant lodged a complaint before the respondent police, thereafter charge sheet was filed before the learned Judicial Magistrate, Mannargudi and the said Magistrate has taken the case on file in C.C.No. 1 of 2017. All the



accused were received charge sheet and the matter was posted on 11.10.2021 "for trial", on that day, the petitioners have not appeared before the Court. Therefore the learned Magistrate has issued non bailable warrant against the petitioners.

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3. The learned counsel appearing for the petitioners submits that due to the suffering of Covid - 19, the petitioners have not able to appear before the Court and he further submits that due to the Covid 19, they could not able to contact the petitioners' counsel. However, their non appearance are neither wilful nor wanton.

4. The learned Additional Public Prosecutor submits that since the petitioners did not appear before the Court below on 11.10.2021, non bailable warrant was issued against them.

5. In view of the above position, this Court is of the opinion that the relief available to the petitioners are 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 them. Therefore, the question of granting anticipatory bail does not at all arise.

6. Considering the fact that non-bailable warrant is pending against the petitioners, the petitioners are directed to surrender before the trial Court i.e., learned Judicial Magistrate Court, Mannargudi 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 Court, Mannargudi 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/-

03/12/2021

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

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

TO

1 THE JUDICIAL MAGISTRATE,
MANNARGUDI, THIRUVARUR DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR DISTRICT. [FOR INFORMATION]



3 THE INSPECTOR OF POLICE,
MANNARGUDI TOWN POLICE STATION,
THIRUVARUR DISTRICT.

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4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. M.A.MUTHALAKAN Advocate on payment of necessary
charges SR.NO.14021

CRL OP.23260/2021

Date :03/12/2021

RW 08/12/2021