



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11/01/2021

WEB COPY

PRESENT

The Hon'ble Mr. Justice K.MURALI SHANKAR

CRL OP(MD) No.367 of 2021

1. R.Selvam
2. R.Sivakumar
3. Ramuthai
4. Dhanalakshmi

... Petitioners/Accused No.1-4

Vs

The State rep. by
The Inspector of Police,
Pattiveeranpatti Police Station,
Dindigul District.
Crime No. 93 of 2012.

... Respondent/Complainant

For Petitioners : Mr.S.Sivaprakash,
Advocate.

For Respondent : Mr.M.V.Chandrasekaran,
Government Advocate (Criminal Side)

PETITION FOR ANTICIPATORY BAIL Under Section 438 of Cr.P.C

PRAYER :-

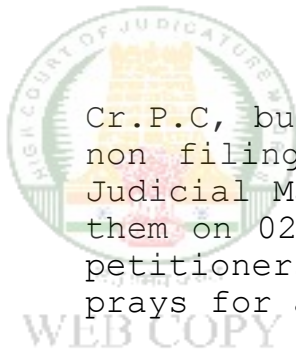
For Anticipatory Bail in Crime No.93 of 2012 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest for the alleged offences under Section 294(b), 323, 506(ii) IPC, in connection with Non-Bailable Warrant issued in C.C.No.201 of 2013, on the file of the learned Judicial Magistrate, Nilakottai, seek anticipatory bail.

2.The petitioners were absent during the trial in C.C.No.201 of 2013 before the learned Judicial Magistrate, Nilakottai and hence, Non-Bailable Warrants came to be issued on 02.12.2016.

3.The learned counsel appearing for the petitioners would submit that the petitioners could not appear before the trial Court and requested his counsel to file a petition under Section 317 of



Cr.P.C, but the counsel has not filed that petition and that due to non filing of the petition under Section 317 Cr.P.C, the learned Judicial Magistrate, Nilakottai issued Non-Bailable Warrant against them on 02.12.2016. He would further submit that the absence of the petitioners on that particular day is neither wilful nor wanton and prays for anticipatory bail to the petitioners.

4.The learned Government Advocate(Criminal side) appearing for the State would submit that the petition before this Court is not maintainable, without exhausting the remedy available under the Criminal Procedure Code.

5.It is not in dispute that since the petitioners have not turned up for that particular hearing and since they have not filed any application to condone their absence and as there was no representation for them, the learned Judicial Magistrate has passed an order on 02.12.2016, for the issuance of Non Bailable Warrants against the petitioners. Since Non Bailable Warrants are pending against the petitioners, the question of granting anticipatory bail does not arise at all. But, at the same time, the only option available to the petitioners is to surrender before the learned Judicial Magistrate Court and to file an application under Section 70(2) Cr.P.C to re-call the Non Bailable Warrants pending against them. Considering the above and on considering the nature of the charges levelled against the petitioners, this Court is inclined to issue directions for surrender before the trial Court.

6.In the result, the petitioners are directed to surrender before the Court of Judicial Magistrate, Nilakottai and to file an application under Section 70(2) Cr.P.C to re-call the Non Bailable Warrants and on filing of such petition, the learned Judicial Magistrate, Nilakottai 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/-

11/01/2021

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



TO

1. THE JUDICIAL MAGISTRATE,
NILAKOTTAI.

2. -DO- THROUGH: THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT.

3. THE INSPECTOR OF POLICE,
PATTIVEERANPATTI POLICE STATION,
DINDIGUL DISTRICT.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.367 of 2021

Date :11/01/2021

DAS

SRS/KV/SAR-II/19.01.2021/3P/5C