



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 27/01/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.645 of 2021

Prasath

... Petitioner/Sole Accused

Vs

The State Rep.by.,
The Inspector of Police,
Keelavalavu Police Station,
Madurai District.
(Cr.No.322/2014).

... Respondent/Complainant

For Petitioner : Mr.S.Thirupathy,
Advocate.

For Respondent : Mr.A.P.G.Ohm Chairma Prabhu,
Government Advocate (Crl.Side)

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

PRAYER :-

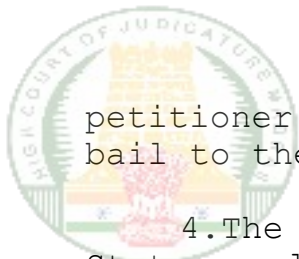
For Anticipatory Bail in Special Case No.27/2016 on the file of the Special Judge for POCSO Act, Madurai.

ORDER : The Court made the following order :-

The petitioner apprehends for the offences punishable under sections 366 and 343 of I.P.C., Section 9 of Child Marriage Restraint Act and Sections 5(L) and 6 of POCSO Act, 2012, in connection with Non-Bailable Warrant issued in S.C.No.27 of 2016, on the file of the learned Special Sessions Court for POCSO Act, Madurai, seeks anticipatory bail.

2.The petitioner was absent during the trial in S.C.No.27 of 2016, on the file of the learned Special Sessions Court for POCSO Act, Madurai, Non-Bailable Warrant came to be issued on 05.09.2019.

3.The learned counsel for the appearing for the petitioner submitted that the petitioner being a lorry driver had gone long trip and due to the travel restrictions, he was unable to return back and appear before the learned Special Sessions Court for POCSO Act, Madurai and therefore, Non-Bailable Warrant was issued against him on 05.09.2019. He further submitted that the act of the



petitioner is neither wilful nor wanton and prays for anticipatory bail to the petitioner.

4.The learned Government Advocate(Crl.side) appearing for the State would submit that the petition before this Court is not maintainable, unless he exhaust the remedy available under the Criminal Procedure Code.

5.In view of the above position, the relief available to the petitioner is to surrender before the learned Special Sessions Court for POCSO Act, Madurai and 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 the non-bailable warrant is pending against the petitioner, the petitioner is directed to surrender before the trial Court i.e., Special Sessions Court for POCSO Act, Madurai, 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 Sessions Court for POCSO Act, Madurai, 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/-
27/01/2021

/ TRUE COPY /

/ /2021
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 JUDGE,
SPECIAL SESSIONS COURT FOR POCSO ACT,
MADURAI.



2.THE INSPECTOR OF POLICE,
KEELAVALAVU POLICE STATION,
MADURAI DISTRICT.

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

+1. CC to MR.S.THIRUPATHY, Advocate SR.No.516

ORDER
IN
CRL OP(MD) No.645 of 2021
Date :27/01/2021

IAS
PK/KV/SAR-II/02.02.2021 : 3P/5C