



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/03/2021

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PRESENT

The Hon'ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.2427 of 2021

Vengaiya @ Vengaiyan

... Petitioner/Sole Accused

Vs

The State Rep. by
The Inspector of Police,
Allinagaram Police Station,
Theni District.
(Crime No.52/2015).

... Respondent/Complainant

For Petitioner : Mr.Sathyachidambaram.S, Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

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

PRAYER :- For Anticipatory Bail in C.C.No.268/2015 on the file of the Judicial Magistrate Court, Theni, Theni District in Crime No.52/2015 on the file of Respondent police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest for the alleged offences under Sections 448, 452 and 511 of IPC. @ 448, 452, 511 and 506(i) of IPC., in connection with Non-Bailable Warrant issued in C.C.No.268 of 2015, on the file of the learned Judicial Magistrate, Theni, Theni District, seeks anticipatory bail.

2.The petitioner was absent during the trial in C.C.No.268 of 2015, on the file of the learned Judicial Magistrate, Theni, Theni District. Therefore, Non-Bailable Warrant came to be issued on 12.09.2019.

3.The learned counsel for the appearing for the petitioner submitted that due to illness, the petitioner could not appear before the learned Judicial Magistrate, Theni, Theni District and therefore, Non-Bailable Warrant was issued against him on 12.09.2019. 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 Judicial Magistrate, Theni, Theni District 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 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., learned Judicial Magistrate, Theni, Theni District 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, Theni, Theni District, 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/-

01/03/2021

/ 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 JUDICIAL MAGISTRATE, THENI.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
3. THE INSPECTOR OF POLICE,
ALLINAGARAM POLICE STATION,
THENI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL OP(MD) No.2427 of 2021

Date :01/03/2021