



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

Date : 01/03/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.3183 of 2021

1. Subramanian
2. Deepak

... 1st Petitioner/Accused No.1
... 2nd Petitioners/Accused
Rank Not Known

Vs

State through
The Inspector of Police,
Thoothukudi Central Police Station,
Thoothukudi District.
(Crime No.37/2019).

... Respondent/Complainant

For Petitioner : Mr.C.Susi Kumar,
Advocate.

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

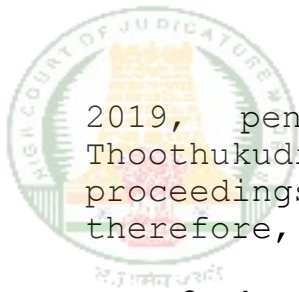
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- for Anticipatory Bail in Crime No.37/2019 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest for the alleged offences under Sections 143, 294(b), 353 and 506(i) of IPC., in connection with S.T.C.No.888 of 2021, on the file of the learned Judicial Magistrate No.II, Thoothukudi, seek anticipatory bail.

2.The learned counsel for the appearing for the petitioners submitted that the petitioners are Teachers in Government School. The allegation is that they have participated in the agitation of their Association viz., JACTO GEO, on 25.01.2019. The petitioners never called for enquiry and the petitioners were not aware about the pendency of the case. Now the investigation has been completed and charge sheet has been filed and taken on file in STC No.888 of



2019, pending before the learned Judicial Magistrate No.2, Thoothukudi. The petitioners apprehends that due to unaware of the proceedings before the trial Court, they could not appear, and therefore, NBW may be issued against them and they may be arrested.

3.The learned Government Advocate(Crl.side) appearing for the State would submit that the 2nd petitioner is not an accused in this case. Insofar as the 1st petitioner is concerned, he has not appeared before the trial Court in all hearing dates. He would further submit that the petition before this Court is not maintainable, unless the 1st petitioner exhaust the remedy available under the Criminal Procedure Code.

4. Since the 2nd petitioner is not an accused in this case, this petition, as against the 2nd petitioner, is dismissed.

5.In view of the above position, the relief available to the 1st petitioner is to surrender before the trial Court 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 facts and circumstances of the case, the 1st petitioner is directed to surrender before the trial Court and file a petition under Section 70(2) of Cr.P.C., On filing of such petition, the learned Judicial Magistrate No.II, Thoothukudi, 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 NO.II, THOOTHUKUDI.

2.-DI-THRO'THE CHIEF JUDICIAL MAGISTRATE,

<https://hcservices.thoothukudi.nic.in> DISTRICT.



3. THE INSPECTOR OF POLICE,
THOOTHUKUDI CENTRAL POLICE STATION,
THOOTHUKUDI DISTRICT.

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

ORDER

IN

CRL OP(MD) No.3183 of 2021

Date : 01/03/2021

MPK

AE/JC/SAR-III (08/03/2021) 3P / 5C