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

Date : 08/11/2021

PRESENT

The Hon'ble Mr. Justice G.R. SWAMINATHAN

CRL OP(MD). No.17223 of 2021

J. James Stanly Joy,

... Petitioner/Accused No.1

Vs

The State rep by its
The Sub Inspector of Police,
Cumbum South Police Station,
Theni District.
(Cr.No. 56 of 2015)

... Respondent / Complainant

For Petitioner : M/s. Muthu Ganesa Pandian.K,
Advocate.

For Respondent : Mr. R. Meenakshi Sundaram,
Additional Public Prosecutor

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

PRAYER :-

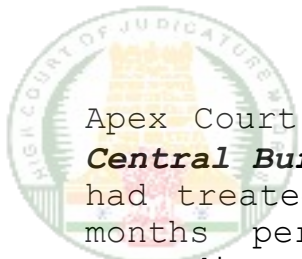
For Anticipatory Bail in Crime No.56 of 2015 on the file of
the Respondent Police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the
learned Additional Public Prosecutor appearing for the respondent.

2. The petitioner apprehending arrest at the hands of the
respondent police for the offences punishable under sections 420,
406, 506(1) of I.P.C., in Crime No. 56 of 2015 on the file of the
respondent police, seeks anticipatory bail.

3. The petitioner is figuring as an accused in C.C.No.186 of
2019 on the file of the Judicial Magistrate, Uthamapalayam. The
petitioner had earlier filed Crl.O.P.(MD)No.5682 of 2020 for
quashing the same. This Court had granted interim stay of the
processes pending in Crl.O.P.(MD)No.5682 of 2020 on 04.06.2020. In view of the judgment of the Hon'ble



Apex Court in ***Asian Resurfacing of Road Agency Private Limited Vs. Central Bureau of Investigation ((2018) 16 SCC 299)***, the Trial Court had treated the interim stay as having expired at the end of six months period as the petitioner failed to produce the order extending the interim order earlier granted. Therefore, the Trial Court cannot be faulted for issuing non bailable warrant. The petitioner could not have kept quiet after getting an order of stay from this Court.

4. Be that as it may, since this Court is seized of the matter, I am of the view that non-bailable warrant need not be actually executed against the petitioner. In any event, this petition for anticipatory bail is not maintainable. Therefore, it has to be dismissed. At the same time, the petitioner deserves to be granted some relief. The petitioner shall appear before the Trial Court on the next hearing date and apply for recall of the warrant. On such application being filed, the same shall be recalled. The petitioner shall not be remanded to custody. Till then, non bailable warrant issued by the trial court shall be kept in abeyance.

5. This Criminal Original Petition is dismissed with the aforesaid direction in favour of the petitioner.

sd/-
08/11/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

rmi/gbg

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,
Uthamapalayam.

2. Do Through The Chief Judicial Magistrate,
Theni.



3. The Sub Inspector of Police,
Cumbum South Police Station,
Theni District.

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4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER IN
CRL OP(MD) No.17223 of 2021
Date : 08/11/2021

TR/PN/SAR-IV(09.11.2021) 3P 5C