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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.1716 of 2022

M.Kamachinathan

... Petitioner

Versus

The Superintendent of Police,
M4 Ennore Police Station,
Kathivakkam High Road,
Ashok Leyland area
Chennai,
Tamil Nadu.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondent to accept bail from the petitioner under the First Proviso to Section 81 Cr.P.C., in satisfaction of the warrant dated 8th November 2021 for bailable offence of Negotiable Instruments Act, 1881, in CS/29358/21 issued by the 19th Metropolitan Magistrate, Calcutta.

For Petitioner : Mr.G.R.Hari

For Respondent : Mr.Raj Thilak
Additional Public Prosecutor

O R D E R

This petition has been filed to direct the respondent to accept bail from the petitioner under the First Proviso to Section 81 Cr.P.C., in satisfaction of the warrant dated 8th November 2021 for bailable offence of Negotiable Instruments Act, 1881, in CS/29358/21 issued by the 19th Metropolitan Magistrate, Calcutta.

2. The petitioner has filed a petition seeking direction that this Court to give direction to the respondent



viz., The Sub Inspector of Police, to accept bail from the petitioner under the first proviso to Section 81 Cr.P.C.

3. The grievance of the petitioner is that the petitioner is facing trial for offence under Section 138 of Negotiable Instruments Act before the XIX Metropolitan Magistrate, Calcutta and in that case, non-bailable warrant has been issued. On strength of the same, the complainant therein, in collusion with the police officials, attempted to secure the petitioner forcibly and take him to Calcutta. His apprehension is that the respondent police will not follow Section 81. As per Section 81 Cr.P.C., if the offence is bailable and the person is ready and willing to give bail to the satisfaction of the concerned Sub Inspector of Police, the Sub Inspector of Police shall take such bail or security and forward the bond to the concerned Court.

4. In view of the same, the petitioner's contention is that, it is the duty of the Executive Magistrate/Commissioner of Police/Superintendent of Police to take bond and forward only the bond of the petitioner to the concerned Court. The petitioner's apprehension is that concerned police officers are not following the procedure of Section 81 Cr.P.C. The concerned police officers are not following the procedure of Section 81 Cr.P.C. The concerned police officers are reminded of their duty to obtain Bond and ensure the presence of the petitioner to appear before the concerned court on the appointed day.

5. With the above directions, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar (LA)

//True Copy//

Sub Assistant Registrar

arr

To

1. The 19th Metropolitan Magistrate,
Calcutta.
2. The Superintendent of Police,
M4 Ennore Police Station,
Kathivakkam High Road,
Ashok Leyland area,
Chennai. Tamil Nadu- 600057.



3. The Public Prosecutor
High Court, Madras.

+2ccs to Mr.G.R.Hari, Advocate, S.R.No.10505 (22/03/2022)

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Cr1.O.P.No.1716 of 2022

RSI (CO)
SU (25/02/2022)