



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:31.01.2022

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.1995 of 2022

Durairaj

.. Petitioner

Vs.

State Rep.by
The Inspector of Police
Poonamallee Police Station,
Thiruvallur District.
Crime No.469 of 2018.

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., praying to enlarge the petitioner in the event of his arrest in Crime No.469 of 2018, on the file of the respondent police.

For Petitioner : Mr.Swamisubramanian

For Respondent : Mr.A.Gokula Krishnan
Additional Public Prosecutor

ORDER

The petitioner who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 406 and 420 of I.P.C. in C.C.No.34 of 2022 on the file of the learned Judicial Magistrate No.II, Poonamallee, Thiruvallur District, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is facing trial for the offence under Sections 406 and 420 of IPC, in S.C.No.34 of 2022, in the learned Judicial Magistrate No.II, Poonamallee, Thiruvallur District, and since he did not appear before the Court on 27.09.2021, non bailable warrant was issued against him.

3.The learned counsel appearing for the petitioner submits that the petitioner's non appearance is neither wilful nor wanton.

4.The learned Additional Public Prosecutor submits that since the petitioner did not appear before the Court on 27.09.2021, therefore, non bailable warrant was issued against him.



5. In view of the above position, this Court is of the opinion that the relief available to the petitioner is to surrender before the learned Magistrate concerned and to 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 non-bailable warrant is pending against the petitioner, the petitioner is directed to surrender before the trial Court i.e., learned Judicial Magistrate No.II, Poonamallee, 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 No.II, Poonamallee, 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/-

31/01/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.II, POONAMALLEE.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVALLUR [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
POONAMALLEE POLICE STATION,
TIRUVALLUR DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S SWAMISUBRAMANIAN Advocate on payment of necessary charges

CRL OP.1995/2022

Date :31/01/2022

CSK 15/02/2022