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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.NO.6994 OF 2022

John @ Sanackyan

... Petitioner

Vs.

The State represented by,

1. The Superintendent of Police,
The District Superintendent of Police Office,
Salem - 636 010.

2. The Inspector of Police,
Kitchipalayam Police Station,
Salem District.

Crime No: 1182 of 2020

... Respondents

PRAYER:

This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to direct the Principal District Court at Salem in Spl.S.C.No.6 of 2021 to recall the Non Bailable Warrant issued as against the petitioner dated 11.02.2022 on the file of the Principal District Court, Salem.

For Petitioner : Mr.R.Surya Prakash

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed seeking to direct the Principal District Court at Salem to recall the Non Bailable Warrant issued as against the petitioner dated 11.02.2022 in Spl.S.C.No.6 of 2021.



2. Learned counsel appearing for the petitioner would submit that the petitioner is arrayed as A2 and he is facing trial in Spl.S.C.No.6 of 2021 on the file of the learned Principal District Judge, Salem for the offences under Sections 147, 148, 341, 302, 427, 120B, 149, 177, 419, 34, 109 of IPC r/w.3(1), 3(2) (v) of SC/ST (POA) Amendment Act, 2015. The case was posted for questioning on 11.02.2022 and since, the petitioner was having mild symptoms of Covid, he was unable to appear before the Court and on instructions, an application under Section 317 of Cr.P.C. was filed by his counsel. Whereas, the learned trial Judge, without taking into consideration of the application filed under Section 317 Cr.P.C, had dismissed it and also issued Non Bailable Warrant of arrest against the petitioner. The petitioner took blood test on the next day and the test report also reveals that the petitioner was affected by Covid. He would further submit that it was not the intention of the petitioner to evade appearance before the Court and thereby, he would seek that a direction may be issued to the learned trial Judge to recall the warrant.

3. Learned Additional Public Prosecutor would submit that the petitioner is the habitual offender and there are 9 previous cases against him. He would also submit that the case in Spl.S.C.No. 6 of 2021 was posted for questioning on 11.02.2022. The trial Court had insisted for the appearance of all the accused for questioning and since, the petitioner did not appear before the Court, it had dismissed the application filed under Section 317 of Cr.P.C., and issued Non Bailable Warrant of arrest. He would also reiterate that the case is now posted for questioning on 06.04.2022 and the option available to the petitioner is to surrender and file application for recall of warrant and thereby, the petitioner may be directed to surrender and file an application seeking to recall the Non Bailable Warrant.

4. Heard the learned counsel and perused the materials available on record.

5. In view of the above submission, it is seen that the petitioner was affected by Covid on 11.02.2022 and the test taken on the next day also shows that he suffered from mild Covid. In view of the above, the petitioner is directed to surrender before the Court and file an application to recall the Non Bailable Warrant on or before 06.04.2022 and the learned trial Judge shall take into consideration the merits of the case, pass orders on the same day of surrender.



6. Accordingly, this Criminal Original Petition stands disposed of with the above direction.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rgi/ham

To

1. The Superintendent of Police,
The District Superintendent of Police Office,
Salem - 636 010.
2. The Inspector of Police,
Kitchipalayam Police Station,
Salem District.
3. The Public Prosecutor,
High Court of Madras.
4. The Principal District Judge,
Salem.

+1 cc to Mr.R.Surya Prakash,Advocate Sr.No.21295

Cr1.O.P.No.6994 of 2022

RSV(CO)
PM/30/03/2022