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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.7307 of 2022

Ezhil @ Ezhilarasan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Kannagi Nagar Police Station,
Chennai District.

... Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleased to recall the Non-Bailable Warrant issued against the petitioner on 14.10.2020 by the Additional District and Sessions Judge, Chengalpattu in S.C.No.49 of 2012.

For Petitioner: Mr.G.Balamanikandan

For Respondent: Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed seeking to recall the Non-Bailable Warrant issued against the petitioner on 14.10.2020 by the learned Additional District and Sessions Judge, Chengalpattu in S.C.No.49 of 2012.

2. Learned counsel appearing for the petitioner would submit that the petitioner is A6 facing trial in S.C.No.49 of 2012 before the learned Additional District and Sessions Judge, Chengalpattu for offences punishable under Sections 148, 341 & 302 of IPC r/w 201 of IPC in Crime No.966 of 2009 on the file of the respondent police. He would further submit that he was regularly appearing before the Court for trial. However, due to non appearance, on 03.04.2018, the learned trial Judge had issued Non-Bailable Warrant and remanded to judicial custody on 25.02.2020.

3. Thereafter, the petitioner had filed bail application in Crl.M.P.No.2202 of 2020 before the learned Principal Sessions



Judge, Chengalpattu and after period of 120 days of incarceration, the petitioner was ordered to be released on 22.06.2020 with a condition to appear before the learned Judicial Magistrate No.II, Alandur on 13.07.2020 for execution of bond and furnishing sureties.

4. He would also submit that however, due to Covid pandemic situation and complete lock-down, the petitioner was unable to surrender, execute the bond and furnish sureties on 13.07.2020. Thereafter, the petitioner had filed an application before the learned Principal Sessions Judge, Chengalpattu for extension of time in Crl.M.P.No.5989 of 2021. However, the same was dismissed by the trial Judge on 24.11.2021. Meanwhile, finding that the petitioner had not appeared for the trial, learned Additional District and Session Judge, Chengalpattu had issued a Non-Bailable Warrant on 14.10.2020. He would also reiterate that the petitioner is now ready to appear before the concerned Court and cooperate for the progress of the trial. Thereby, he would seek to direct the learned trial Judge to recall the Non-Bailable Warrant.

5. Learned Additional Public Prosecutor would submit that it is the case of the year 2009, the final report was filed in the year 2012 and the case was taken in S.C.No.49 of 2012 on the file of the learned Additional District and Sessions Judge, Chengalpattu. Earlier, the petitioner had not appeared for trial and Non-Bailable Warrant was issued on 03.04.2018 and he was arrested and released on bail and once again the petitioner had absconded. In such circumstances, such a direction cannot be passed by this Court. He would further submit that the option available to the petitioner is to appear before the concerned Court and file an application seeking to recall the warrant. He would reiterate that the case now stands posted for trial on 20.04.2022 and seven witnesses had already been examined.

6. In view of the above, a direction is issued to the petitioner to surrender before the learned trial Judge on or before 20.04.2022 and file an application to recall the warrant. On such application being filed, the learned trial Judge is directed to consider and pass orders on the same day, taking into consideration the merits of the case.

7. Accordingly, this Criminal Original Petition stands disposed of with the above directions.

Sd/-
Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar



rgi/ham

To

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1. The Additional District and Sessions Judge,
Chengalpattu.
2. The Inspector of Police,
Kannagi Nagar Police Station,
Chennai District.
3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.G.Balamanikandan, Advocate SR.No.21851

Crl.O.P.No.7307 of 2022

GPL(CO)
GMY(13/04/2022)