



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Thursday, the Twenty Sixth day of May Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice M. NIRMAL KUMAR
CRIMINAL ORIGINAL PETITION No.12520 of 2022

RAJKUMAR THARANIPATHY

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
EOW ECONOMIC OFFENCE CASE,
EGMORE, CHENNAI (EO-II).

[RESPONDENT]

For Petitioner : M/S. AR.L.SUNDARESAN SENIOR COUNSEL
FOR M/S AL.GANTHIMATHI Advocate

For Respondent : MR.V.MEGANATHAN, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest on the non-bailable warrant issued in EOCC No.58 of 2016 by the Additional Chief Metropolitan Court, Chennai, on 28.04.2021, seeks anticipatory bail.

2.The learned counsel for the petitioner would submit that the Deputy Registrar of Companies had filed a complaint against the petitioner for violation of Section 165 of the Companies Act alleging that the petitioner is holding Directorship in more than the limit specified under Section 165 of the Companies Act.

3.Further, the learned counsel for the petitioner would submit that the petitioner was holding Directorship in about 19 companies and subsequent to the introduction of Section 165 of Companies Act, 2013, he resigned from most of the Companies and he was never at one time Director of 20 Companies. The copies of the resignations were also submitted to the Registrar of Companies, however, the Registrar of Companies without considering the same, issued a show cause notice to the petitioner on 15.02.2016, which was duly replied. Thereafter, the petitioner was not called for any further clarification and the petitioner was under the impression that the show cause notice dropped. Now the petitioner came to know that the respondent police have attempted to execute Non-bailable Warrant against the petitioner. On verification from the E-Court, it is found that the



complaint has been filed against the petitioner on 23.03.2016 and the case has been kept pending for serving of summons till 03.03.2021. Suddenly, on 28.04.2021, it is recorded in the adjudication as non bailable warrant is pending. But no summons have been served to the petitioner so far. Thereafter, the case has been periodically adjourned to 20.06.2022. The petitioner apprehends that on the strength of the Non Bailable Warrant the respondent police have attempted to arrest the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent seeks time to get instructions.

5.Heard the learned counsel on either side and perused the materials placed on record.

6.On a perusal of the records, it is seen that in the year 2016 the Registrar of Companies has filed a private complaint against the petitioner for violation of Section 165 of the Companies Act, alleging that the petitioner is holding Directorship in more than the limit specified under Section 165 of the Companies Act. The said complaint was taken on file in EOCC.No.58 of 2016 on the file of the Additional Chief Metropolitan Magistrate, (EO-II), Egmore, Chennai. In this case admittedly the complaint has been filed by ROC in the year 2016 and from the adjudication it is seen that till 03.03.2021 summons were pending. Thereafter on 28.04.2021, it is recorded that Non Bailable Warrant is pending. In the adjudication dated 25.4.2021, there is nothing to show that summons served and on failure to respond to the summons, Non Bailable Warrant issued against the petitioner.

7.Considering the above facts and circumstances of the case, this Court is inclined to direct the respondent police not to execute the Non Bailable Warrant against the petitioner. In the meanwhile, the petitioner is directed to approach the learned Additional Chief Metropolitan Magistrate, (EO-II), Egmore, Chennai, within a period of two weeks from today and file a petition to recall NBW already issued against him. On filing of such petition, the concerned learned Judicial Magistrate is directed to consider the same on merits and pass orders on the same day.

8.Accordingly, this Criminal Original Petition stands disposed of.

-sd/-

26/05/2022

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.



1 THE ADDITIONAL CHIEF
METROPOLITAN MAGISTRATE, (EO-II),
EGMORE, CHENNAI

2 THE INSPECTOR OF POLICE,
EOW ECONOMIC OFFENCE CASE,
EGMORE, CHENNAI (EO-II).

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.AL.GANTHIMATHI Advocate on payment of necessary
charges Sr.7919

CRL OP.12520/2022

Date :26/05/2022

RVR 31/05/2022