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Crl.O.P.No.25895 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.No.25895 of 2022

J. Ashok

... Petitioner

Vs.

State rep.by
The Inspector of Police,
District Crime Branch,
Erode District.
Crime No.43 of 2009

... Respondent

Prayer : The Criminal Original Petition is filed under Section 482 Cr.P.C., to direct the learned Judicial Magistrate Court No-II, Erode to consider the petition to recall the Non Bailable Warrant issued as against the petitioner on 16.06.2016 in C.C.No.196 of 2019 on same day of surrender.

For Petitioner ... Mr. C. Ramkumar

For Respondent ... Mr. E. Raj Thilak,
Additional Public Prosecutor



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ORDER

This Criminal Original petition has been filed to direct the learned Judicial Magistrate Court No-II, Erode to consider the petition to recall the Non Bailable Warrant issued as against the petitioner on 16.06.2016 in C.C.No.196 of 2019 on same day of surrender.

2. The learned counsel appearing for the petitioner would submit that due to ill health, he was unable to appear before the learned Judicial Magistrate Court No-II, Erode in respect of the case in C.C.No.196 of 2019 and hence, non bailable warrant has been issued against the petitioner. He would further submit that the said absence is neither willful nor wanton and he undertakes that the petitioner shall appear before the Court below regularly on all future hearing dates without fail.

3. Considering the undertaking given by the learned counsel for the petitioner, the petitioner is directed to appear before the learned Judicial Magistrate Court No-II, Erode on the next hearing and to file a petition under



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Section 70(2) of Cr.P.C., to recall NBW already issued against him. On filing of such petition, the concerned learned Magistrate is directed to consider the same on its own merits in accordance with law and pass orders on the same day.

4. With the above direction, this Criminal Original Petition is disposed of. It is made clear that while considering the petition to recall, the Court below shall bear in mind about the period of Non Bailable Warrant and any crime committed while pending Non Bailable Warrant. Mere direction issued by this Court to consider the application on the same day does not amount to direction to consider the recall petition favourably.

14.11.2022

AT

Index:Yes/No

Speaking/Non speaking order



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V.SIVAGNANAM, J.

AT

To

1.The Inspector of Police,
District Crime Branch,
Erode District.

2.The Public Prosecutor,
High Court of Madras.

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