



Crl.O.P.No.26436 of 2022

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A.D.JAGADISH CHANDIRA, J.

The petitioner who apprehends arrest pursuant to the Non-Bailable Warrant issued on 18.10.2022 in P.R.C.No.36 of 2020 by the learned Judicial Magistrate – III, Vellore has filed the present petition seeking anticipatory bail.

2. The learned counsel for the petitioner would submit that the petitioner is A10 in Crime No.48 of 2017 on the file of the respondent police. The respondent police after completing investigation filed final report and the case is now pending committal in P.R.C.No.36 of 2020 on the file of the learned Judicial Magistrate – III, Vellore. He would further submit that the petitioner due to illness was unable to appear before the Court on 17.10.2022, where as the learned Judicial Magistrate – III, Vellore had adjourned the matter to a short date on 18.10.2022 and then since the petitioner could not appear on that date, the learned Magistrate had issued Non-Bailable Warrant of arrest against him. He would further



Crl.O.P.No.26436 of 2022

submit that the failure of the petitioner to appear before the learned Judicial Magistrate – III, Vellore on 18.10.2022 is neither willfull nor wanton. He would further submit that the petitioner is ready to surrender however apprehending that the learned Magistrate may remand him to custody has approached this Court seeking anticipatory bail.

3. The learned Government Advocate (crl.side) appearing for the respondent would submit that it is a case of the year 2017. There is a direction from this Court seeking to complete the trial, while so when the matter was posted on 17.10.2022, the petitioner did not appear before the Court. The learned Magistrate adjourned the matter on 18.10.2022, even on that day the petitioner did not appear. Thereby the learned Magistrate issued Non-Bailable Warrant against him. There are 15 accused in this case and the accused have been taking turns one after the other, thereby preventing the learned Magistrate to commit the case to the Court of the Sessions. He would further submit that pursuant to the directions of this Court, the learned Magistrate has issued NBW against the petitioner. In such circumstances, the option available to the petitioner is to surrender



Crl.O.P.No.26436 of 2022

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before the Court concerned and file an application to re-call the Non-Bailable Warrant issued against him.

4. At this juncture, the learned counsel for the petitioner would submit that the petitioner has filed an affidavit of undertaking before this Court that he will appear before the committal Court and also before the trial Court on all hearing dates without fail and that the voluntariness of the petitioner may be considered.

5. It is a case where the learned Magistrate has issued Non Bailable Warrant against him and thereby the option available to the petitioner is to surrender and file an application to re-call the warrant issued against him. This Court has also taken note of the affidavit the petitioner had filed undertaking to surrender immediately and also the further undertaking to appear before the Court concerned on all hearing dates in future. It is also stated that the case stands posted for next hearing on 21.11.2022.



Crl.O.P.No.26436 of 2022

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6. In view of the above, direction is issued to the petitioner to surrender on or before 21.11.2022 before the learned Judicial Magistrate – III, Vellore and to file an application to recall the warrant. The learned Magistrate, taking into consideration the affidavit of undertaking filed by the petitioner shall pass Orders on the same day of his surrender.

7. 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.

8. This criminal original petition is disposed of accordingly.

04.11.2022

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Crl.O.P.No.26436 of 2022

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Crl.O.P.No.26436 of 2022

04.11.2022



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Crl.O.P.No.26436 of 2022