



Crl.O.P.No.32173 of 2022

T.V.THAMILSELVI, J.

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The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 427 IPC, 151 Cr.P.C., r/w Section 7(1)(a) CLA Act subsequently altered to 341 IPC and Section 3(1) of Tamil Nadu Public Property Damages Act as amended 1994 & 7(1)(a) CLA Act and the Non-Bailable Warrant issued to the petitioner on 20.02.2019 in SC.No.146 of 2015 on the file of the learned District Principal Judge, Salem, Salem District, seeks anticipatory bail.

2. It is seen that the petitioner is facing trial for the aforesaid offences in SC.No.146 of 2015 on the file of the learned District Principal Judge, Salem, Salem District, and since he did not appear before the Court on 20.02.2019, non bailable warrant was issued against him.

3.The learned counsel appearing for the petitioner would submit that the respondent police completed the investigation and filed a final report before the learned Judicial Magistrate No.II, Attur, Salem District and thereafter, the case was transferred to the learned Sub Court, Attur, Salem District for disposal and the learned Assistant Sessions Judge, Attur



assigned case number as S.C.No.146 of 2015 and summon were served to the petitioner and other accused and he was appeared before the Court and thereafter the learned Assistant Sessions Judge, Attur, Salem District transferred the case to the learned District Principal Judge, Salem, Salem District for disposal and he was also appeared before the Court till 20.02.2019 and on 20.02.2019, he was unable to appear before the Court as he went to abroad for his coolie work and failed to inform about his absence to his counsel and hence, non bailable warrant was issued against him on the same day. However, his non appearance is neither wilful nor wanton.

4.The learned Government Advocate (Crl.Side) would submit that since the petitioner did not appear before the Court on 20.02.2019, non bailable warrant was issued against him.

5.In view of the above position, this Court is of the opinion that the relief available to the petitioner is to surrender before the learned Magistrate concerned and to file a petition under Section 70(2) of Cr.P.C. to recall the Non Bailable Warrant of Arrest issued against him. Therefore, the question of granting anticipatory bail does not at all arise.



T.V.THAMILSELVI, J.

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6. Considering the fact that non-bailable warrant is pending against the petitioner, the petitioner is directed to surrender before the trial Court i.e., the learned District Principal Judge, Salem, Salem District, and file a petition under Section 70(2) of Cr.P.C., to recall the non bailable warrant. On filing of such petition, the learned District Principal Judge, Salem, Salem District is directed to consider the said petition on merits and pass orders on the same day.

7. Accordingly, this criminal original petition is disposed of.

23.12.2022

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