



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 04/01/2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP (MD) . No.13354 of 2021

B.Shanmugam

... Petitioner/Sole Accused

Vs

State rep.by
The Sub Inspector of Police,
CBCID, Thanjavur District.
(Crime No.11 of 2009).

... Respondent/Complainant

For Petitioner : M/s.Chandrakumar A, Advocate.

For Respondent : M/s.Rms.Sethuraman,
Additional Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime No.11 of 2009 on the file of the Respondent Police.

ORDER : The Court made the following order :-

This petition has been filed to enlarge the petitioner on bail in the event of his arrest in connection with NBW issued by the learned Judicial Magistrate, Thiruvaiyaru in C.C.No.1 of 2011 pending execution by the respondent.

2.The case of the prosecution is that the petitioner said to have produced a fake bank security bond in the year of 2008 for obtaining contract work under Tamilnadu Government Tsunami Rehabilitation Scheme. Hence, a case was registered in Crime No.11 of 2009 for the offence under Sections 465, 467, 468, 471 and 420 of IPC. After completion of investigation, final report was filed before the learned Judicial Magistrate, Thiruvaiyaru, and the same was taken on file in C.C.No.1 of 2011. Due to non appearance of the petitioner, warrant was issued against him on 26.04.2021. Hence, this petition.



3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He would further submit that he was regularly appearing before the concerned Court. But, due to his health condition, he could not appear before the Court on 26.04.2021. Subsequently, warrant has been issued against him. Hence, the petitioner filed an application under Section 70(2) of Cr.P.C to recall the NBW along with application for Advance hearing on 02.08.2021 before the concerned Court. But, the both applications were returned by the learned Magistrate without assigning any valid reasons and refused to recall the NBW issued against the petitioner. A return copy of the above said order has also been enclosed in the typed set of papers.

4.It is seen that since the petitioner approached the concerned Court seeking recall the NBW, it was returned without assigning any valid reasons. It may not be proper on the part of the trial Court to return such petition without considering the merits.

5.In view of the above, the petitioner is directed to represent the recall petition before the learned Judicial Magistrate, Thiruvaiyaru, within a period of 15 days from the date of receipt of a copy of this order and the learned Judicial Magistrate, Thiruvaiyaru, is directed to consider the same on merits and pass orders taking into account the health condition of the petitioner, who has undergone surgery for fracture in his right leg.

6.With the above direction, this Criminal Original Petition is disposed of.

Sd/-
04/01/2022

/ TRUE COPY /

/ /2022
Sub-Assistant Registrar (C.S.II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



1. THE JUDICIAL MAGISTRATE,
THIRUVAIYARU.

2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
THANJORE DISTRICT AT KUMBAKONAM.

3. THE SUB-INSPECTOR OF POLICE,
CBCID, THANJAVUR DISTRICT.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.13354 of 2021
Date :04/01/2022

SP/CN/SAR II/10/01/2022/3P/5C