



CrI.O.P.No.803 of 2023

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T.V.THAMILSELVI, J.

The petitioner filed this petition seeking to enlarge the petitioner on bail in the event of arrest in C.C.No.16 of 2022 on the file of the Judicial Magistrate, Kotagiri, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner is facing trial for the commission of offence under Sections 120B, 406, 420 IPC, in C.C.No.33 of 2017 before the Judicial Magistrate, Kotagiri, and since he did not appear before the Court on 13.07.2022, non bailable warrant was issued against him. Subsequently on 27.07.2022 the case was split up against the petitioner and the Calendar case against him was renumbered as C.C.No.16 of 2022.

3. The learned counsel appearing for the petitioner would submit that the petitioner could not come to Kotagiri and recall the non-bailable warrant immediately due to prior commitments and communication gap. However, his non appearance is neither wilful nor wanton. Hence, he prays for grant of anticipatory bail to the petitioner.



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4.The learned Government Advocate (Crl.Side) would submit that since the petitioner did not appear before the Court on 13.07.2022, 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 Judicial 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.

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., learned Judicial Magistrate, Kotagiri 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 Judicial Magistrate, Kotagiri, is directed to consider the said petition on merits and pass orders on the same day.



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7. Accordingly, this Criminal Original Petition is disposed of.

12.01.2023

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T.V.THAMILSELVI, J.

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