



Crl.O.P.No.3319 of 2023

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T.V.THAMILSELVI, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Section 294(b) and 420 of IPC in Cr.No.1876/2021 under Non-Bailable Warrant issued on 09.01.2023 in CC.No.91/2022 on the file of the learned Judicial Magistrate Court, Palladam, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner is facing trial for the offence under Section 294(b) and 420 of IPC in CC.No.91/2022 on the file of the learned Judicial Magistrate Court, Palladam and since she did not appear before the Court on 09.01.2023, non bailable warrant was issued against her.

3. The learned counsel appearing for the petitioner would submit that on 09.01.2023, the petitioner's son was not well and was taken to hospital. Therefore, her counsel filed 317 petition, however, the same was dismissed and consequently, non bailable warrant was issued against her on



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09.01.2023. However, her non appearance is neither wilful nor wanton. He further submitted that, the petitioner is ready to surrender before the trial Court and execute the sureties and also co-operate for the speedy disposal of the trial. Therefore, he prays for grant of bail to the petitioner.

4. The learned Government Advocate would submit that since the petitioner did not appear before the Trial Court on 09.01.2023, non bailable warrant was issued against her. He would submit that the option available for the petitioner is to surrender before the concerned Court and file an application for recalling the warrant. Hence, he opposed for grant of anticipatory bail to the petitioner.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate (crl.side) for the respondent and perused the entire materials available on record.

6. 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



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Non Bailable Warrant of Arrest issued against her. Therefore, the question of granting anticipatory bail does not at all arise.

7. 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 Court, Palladam 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 Court, Palladam is directed to consider the said petition on merits and pass orders on the same day.

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

15.02.2023

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