



Crl.O.P.No.5605 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 120B, 395 and 411 of IPC, in Crime No.33 of 2009, seeks anticipatory bail.

2. The learned counsel for the petitioner would submit that the petitioner was originally arrayed as A8 in Crime No.33 of 2009 registered by the respondent police for the offences punishable under Sections 120B, 395 and 411 of IPC. The respondent had, after completing the investigation, filed a final report and the case was taken up for Trial in S.C.No.44 of 2010 on the file of the Additional District Sessions Judge and Fast Track Court – II, Tindivanam. Since the allegation against the petitioner was only for the offence under Section 411 of IPC, the petitioner had approached this Court by filing Crl.O.P.No.5156 of 2010 seeking to quash the proceedings in



CrI.O.P.No.5605 of 2023

PRC.No.15of 2009 on the file of the Judicial Magistrate – I, Tindivanam, Villupuram District. This Court had granted stay of proceedings in S.C.No.44 of 2010 in respect of the petitioner. The petitioner was under the impression that the quash petition was pending. While so, the quash petition had been dismissed by this Court on 06.12.2019. Due to miscommunication between him and the counsel, the order of dismissal was not communicated to the petitioner. Meanwhile, since the petitioner had not appeared before the Trial Court, the Trial Court had issued Non Bailable Warrant. Later, the case has also been split up against the petitioner and it is pending Trial in S.C.No.12 of 2023 and the case stands posted on 21.03.2023.

3. The learned counsel for the petitioner would further submit that it was not the intention of the petitioner, to shy away from appearing before the Court below and only on account of the bonafide impression that the quash petition was pending before this Court, he did not appear before the Court below. He would thereby seeks anticipatory bail.



Crl.O.P.No.5605 of 2023

WEB COPY

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner was initially arrayed as A8 in PRC.No.15 of 2009, that the petitioner had earlier approached this Court by filing Crl.O.P.No.5156 of 2010 seeking to quash the proceedings in PRC.No.15 of 2009 and that this Court had granted stay. However, the quash petition came to be dismissed on 06.12.2019. Since the petitioner did not appear before the Court, the Trial Court had issued Non Bailable Warrant against the petitioner on 11.01.2021. The case against the petitioner is now pending in S.C.No.12 of 2023 on the file of the Additional District and Sessions Judge and Fast Track Court - II. He would further submit that the option available to the petitioner is to surrender and to file a petition seeking to recall the warrant and therefore the petition for anticipatory bail may not be maintainable. He would object for grant of anticipatory bail.

5. Heard both sides and perused the materials available on records.



Crl.O.P.No.5605 of 2023

WEB COPY

6. Considering the above facts and circumstances of the case and the submissions made on both sides, a direction is issued to the petitioner to surrender before the Trial Court and to file an application seeking to recall the warrant and the learned Trial Judge, taking into consideration the merits of the case, shall pass orders on the petition on the same day of his surrender.

7. Accordingly, this Criminal Original Petition is dismissed.

13.03.2023

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Crl.O.P.No.5605 of 2023

A.D.JAGADISH CHANDIRA, J.

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Crl.O.P.No.5605 of 2023

13.03.2023



Crl.O.P.No.5605 of 2023

Crl.O.P.No.5605 of 2023

WEB COPY

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The Criminal Original Petition is listed today under the caption “for being mentioned”.

2. Learned counsel appearing for the petitioner submitted that this Court, by an order dated 13.03.2023, has issued a direction to the petitioner. However, a typographical error has crept in the paragraph 7 of the order copy.

3. Considering the above submission, the error is corrected and the paragraph 7 of the order shall be read as follows:

"7. Accordingly, this Criminal Original Petition stands disposed of."

27.03.2023

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Note : Registry is directed to issue a fresh order copy.

Page 6 of 7



WEB COPY



Crl.O.P.No.5605 of 2023

A.D.JAGADISH CHANDIRA, J.

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Crl.O.P.No.5605 of 2023

27.03.2023

Page 7 of 7