



Crl.O.P.No.7740 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 offences punishable under Sections 454 (or) 457 and 380 of IPC in Crime No.302 of 2009 on the file of the respondent police in C.C.No.54 of 2011 on the file of the learned Judicial Magistrate, Gudalur, Nirlgiri District, seeks anticipatory bail.

2. The learned counsel appearing for the petitioner would submit that the petitioner is an accused and facing trial in C.C.No.54 of 2011 on the file of the learned Judicial Magistrate, Gudalur, Nirlgiri District. He would further submit that the petitioner's name was not found in the FIR. The respondent police, after investigation, had filed the final report during the year 2011 and the case had been taken on file in C.C.No.54 of 2011 on the file of the learned Judicial Magistrate, Gudalur, Nirlgiri District. Initially, the Court had thought that there were only 2 accused in this case and the summons were also issued to those two accused. Later, on 06.03.2023, the Court had found that there are two other accused and on finding that the petitioner's name was found in the final report, had issued Non Bailable Warrant against the petitioner. He would submit that without issuance of any summons, the learned Judge has straight away



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issued the Non Bailable Warrant against the petitioner and thereby, the petitioner apprehending arrest. Hence, the present petition has been filed seeking for grant of anticipatory bail to the petitioner.

3. The learned Government Advocate (Crl. Side) would submit that even if what is stated by the learned counsel for the petitioner are true, the petitioner has to approach the trial Court by filing a petition to recall the warrant and the learned Magistrate may be directed to consider the same on merits.

4. Heard both sides and perused the materials available on record including the adjudication of the learned Principal District Munsif-cum-Judicial Magistrate, Gudalur, passed in C.C.No.54 of 2011 dated 06.03.2023 and the same is extracted below;

Business: “11 years old case. Hearing advanced vide Crl.M.P.No.1009/2023. A1 surrendered. Order of Non Bailable Warrant recalled vide Crl.M.P.No. /2023. Non Bailable Warrant pending against A2. On perusing bundle it found there are 4 accused were arranged by mistakenly it was cited 2 accused same has rectified. Records shows that case pending for longer time for want of service. Hence in view of ensuring appearance

<https://www.mhc.tn.gov.in/judicial> of A3, A4 and also in the interest of justice, order of



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*Non Bailable Warrant issued against A3, A4 U/s.
204(1)(b) of Cr.P.C. Issue for call on 10.04.2023.*

*Next Purpose : Service Pending_ Non – Bailable
Warrant*

Next Hearing Date: 10.04.2023

5. In view of the above facts and circumstances, the petitioner is directed to appear before the learned Judicial Magistrate, Gudalur, Nirlgiri District, within a period of two weeks from today and to file a petition to recall NBW already issued against him. On filing of such petition, the concerned learned Judge is directed to consider the same on merits and pass orders on the same day.

6. This criminal original petition is disposed of accordingly.

12.04.2023

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