



Crl.OP.No.24163 of 2023

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G.K.ILANTHIRAIYAN, J.

The petitioner, who was arrested and remanded to judicial custody on 07.04.2022 for the offences punishable under Sections 120(B), 147, 148, 449, 450, 454, 456, 302, 396, 396 read with Section 397, 120(b) read with Section 149 and 109 of IPC and under Section 25(1)(a) of Arms Act in PRC.No.14 of 2015 pending committal on the file of Judicial Magistrate-IV, Salem in respect of Crime No.575 of 2002 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was arrayed as accused in a case of double murder. It is alleged that when the case was pending for committal in PRC.No.14 of 2015 on the file of the learned Judicial Magistrate -IV, Salem in respect of Crime No.575 of 2022 on the file of the respondent police, the petitioner was absent on 23.02.2002 before the Court below. As such, on execution of non bailable warrant, the petitioner was arrested and remanded to Judicial Custody.

3. The learned counsel for the petitioner vehemently contended



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that without issuing summons to the petitioner in PRC.No.14 of 2015, the learned Judicial Magistrate-IV, Salem straight away issued non bailable warrant as against the petitioner. The learned Judicial Magistrate ought to have issued bailable warrant first and only thereafter, in the absence of accused, the learned Judicial Magistrate ought to have issued non bailable warrant. Therefore, this Court called for records from the trial court i.e. III Additional Sessions Judge, Salem, before whom the trial is pending in SC.No.214 of 2022.

4. The learned Government Advocate (Criminal Side) would submit that this is the sixth bail petition filed by the petitioner. Earlier, this Court had dismissed the bail petitions filed by the petitioner on several occasions. Hence, he vehemently opposed to grant bail to the petitioner.

5. On perusal of the report submitted by the trial court, revealed that the petitioner was initially served with summon dated 27.07.2010, thereby summoning the petitioner to appear for the first hearing date on 05.08.2010. However, he was not appeared for the past four years till 2014. As such, on 28.05.2014, non bailable warrant was



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issued as against the petitioner. The extract of the E-diary is also produced along with the report. Therefore, this Court finds that the petitioner was initially served with summon and it was pending for the past four years till 2014. Only thereafter, the petitioner was issued non bailable warrant.

6. Taking into consideration the facts and circumstances of the case and also the submissions made by either side, this Court has dismissed the earlier bail petitions filed by the petitioner and there is no change of circumstances, this Court is not inclined to grant bail to the petitioner.

7. Accordingly, this Criminal Original Petition stands dismissed.

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