



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 07/03/2023

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD) . No.1914 of 2023

V.Murugan

... Petitioner

Vs

1.The District Consumer Disputes
Redressal Forum,
Theni District.

2.The Inspector of Police,
Royappanpatti Police Station,
Theni District.

... Respondent

For Petitioner : M/s.Muthu Saravanan.C, Advocate

For Respondent : R.M.Anbunithi
Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

To enlarge the petitioner on bail in the event of his arrest pursuant to the Non Bailable Warrant issued by the 1st respondent commission dated 25.08.2010 in E.A.No.99 of 2008 in C.C.No.192 of 2007 in the interest of justice.

ORDER : The Court made the following order :-

The petitioner apprehends arrest at the hands of the second respondent based on the Non-Bailable Warrant issued by the first respondent Commission in E.A.No.99 of 2008 in C.C.No.192 of 2007, dated 25.08.2010, seeks anticipatory bail.

2.The learned counsel appearing for the petitioner submitted that the petitioner was one of the partners in Sri Selva Ganapathy Auto Finance and there were 8 other partners who indulged in auto finance in and around Cumbum. Due to personal reasons, the petitioner resigned from the Firm on 14.04.2001 by submitting his



resignation letter. While so, one Natarajan and his wife Ma. ai filed a complaint against the petitioner and 6 others, including the Firm in C.C.No.192 of 2007 before the first respondent praying to refund the deposit amount of Rs.1,00,000/- with interest thereon. The first respondent, by order, dated 24.08.2008 allowed the complaint and directed the opposite party Nos.1 to 9 therein jointly and severally to refund Rs.1,00,000/- to the complainant with 12% interest and pay a compensation of Rs.5,000/-. In the meantime, one Subramaniyapillai, lodged a complaint against the firm and other partners for the non-refund of deposit amounts invested by the depositors. A case under Section 420 of IPC and Section 5 of TNPID Act was registered, and the investigation was transferred to EOW, Theni. The said agency investigated the crime and laid a charge sheet before the TANPDID Court, Madurai in C.C.No.112 of 2008. More than 15 depositors were cited as witnesses in the case, and several documents were relied on by the prosecution. The trial is pending as on date for attachment of the properties of some of the partners and the case is presently posted on 14.02.2023 for further hearing.

3.The learned counsel appearing for the petitioner further submitted that the petitioner received a notice from the first respondent in E.A.No.99 of 2008 in C.C.No.192 of 2007 calling for the petitioner to appear before the Commission on 13.05.2022. In obedience to the summons, the petitioner appeared before the first respondent Commission and came to understand that Non-Bailable Warrant came to be issued on 28.05.2010. The petitioner submitted that he appeared before the first respondent Commission and requested to recall the warrant in view of the fact that the petitioner resigned from the Firm as early as on 14.04.2001 and that the said resignation letter was marked as Ex.B.1. However, the first respondent Commission declined to recall the Non-Bailable Warrant and insisted the petitioner to pay the entire amount, though the petitioner was one among the partner out of eight. The petitioner submitted that the criminal case is now being tried by the TNPID Court, Madurai and the same is still pending.

4.The learned counsel appearing for the petitioner undertakes that the petitioner shall appear before the Court below regularly on all future hearing dates, without fail.

5.Considering the undertaking given by the learned counsel for the petitioner, the petitioner is directed to appear before the learned Judicial Magistrate, Uthamapalayam, Theni District on the next hearing and to file a petition under Section 70(2) of Cr.P.C., to recall NBW already issued against him. On the filing of such petition, the concerned learned Magistrate is directed to consider the same on its own merits and in accordance with law and pass orders on the same day.

6.With the above direction, this Criminal Original Petition is disposed of. It is made clear that while considering the petition



to recall, the Court below shall bear in mind about the of Non Bailable Warrant and any crime committed while pending Non Bailable Warrant. Mere direction issued by this Court to consider the application on the same day does not amount to direction to consider the recall petition favourably.

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07/03/2023

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/03/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PS

To

1.The Judicial Magistrate,
Uthamapalayam, Theni District.

2.Do through the Chief Judicial Magistrate,
Theni District.

3.The District Consumer Disputes Redressal Forum,
Theni District.

4.The Inspector of Police,
Royappanpatti Police Station,
Theni District.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1. CC to M/S.MUTHU SARAVANAN.C Advocate SR.No.3922(I), dated
10.03.2023

ORDER
IN
CRL OP(MD) No.1914 of 2023
Date :07/03/2023

ED/SBN/SAR-3 (15/03/2023) 3P 7C