



Crl.O.P.No.10551 of 2024

T.V.THAMILSELVI, J.

The petitioner, who apprehends arrest for the alleged offences punishable under Sections 397 and 395 of IPC, in P.R.C.No.16 of 2023, on the file of the learned Judicial Magistrate No.1, Udumalpet, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is facing trial for the offence under Section 397 and 395 of IPC in P.R.C.No.16 of 2023 before the learned Judicial Magistrate No.I, Udumalpet, and since he did not appear before the Court on 01.12.2023, non bailable warrant was issued against him.

3.The learned counsel appearing for the petitioner would submit that the trial Court has not issued any notice to the petitioner, hence, he was unable to appear before the lower Court and hence non bailable warrant was issued against him. However, his non appearance is neither willful nor wanton.



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4.The learned Government Advocate (CrI.Side) would submit that since the petitioner did not appear before the Court on 01.12.2023, non bailable warrant was issued against him.

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

6. 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 No.1, Udumalpet, Tirupur District 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 No.1, Udumalpet, Tirupur District , is directed to consider the said petition on merits and pass orders on the same day.



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7. Accordingly, this Criminal Original Petition is disposed of.

29.04.2024

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