



CRL OP(MD) No.258 of 2024

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

Tuesday, the Ninth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.258 of 2024

S.T.THOMU @ THOMA @ BABU RAJ

... PETITIONER/ACCUSED NO.5

Vs

THE INSPECTOR OF POLICE
MUNNEERPALLAM POLICE STATION,
TIRUNELVELI DISTRICT.
CRIME NO.246/2011

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.S.SIVAKUMAR, Advocate

For Respondent : MR.SS.MADHAVAN, Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL UNDER SEC 438 OF CR.P.C.

PRAYER :-

TO DIRECTING THE RELEASE OF THE PETITIONER ON ANTICIPATORY BAIL IN THE EVENT OF ARREST BY THE RESPONDENT POLICE IN CC.NO.800/2019 ON THE FILES OF THE JUDICIAL MAGISTRATE NO.5, TIRUNELVELI

ORDER : The Court Made the following order :-

The petitioner / Accused No.5, who apprehends arrest at the hands of the respondent Police for the alleged offence punishable under Sections 4(1)aaa and 4(1-A) of TNP Act, subsequently, altered into under Sections 4(1)(aaa) and 4(1-A) of the



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TNP Act r/w 7 of Rectified Spirit Rule-2000 @ under Sections 468, 465 and 471 of I.P.C. and Sections 4(1) (aaa) r/w 7 of Rectified Spirit Rule-2000 in C.C.No.800 of 2019, on the file of the Judicial Magistrate Court No.V, Tirunelveli, seeks anticipatory bail.

2. The petitioner was absent during the trial in C.C.No.800 of 2019, on the file of the Judicial Magistrate Court No.V, Tirunelveli. Therefore, Non-Bailable Warrant came to be issued on 20.07.2023.

3. The learned counsel appearing for the petitioner would submit that since the petitioner did not appear before the lower Court, NBW was issued against him on 20.07.2023. However, his non appearance is neither wilful nor wanton.

4. The learned Government Advocate (Criminal Side) appearing for the respondent Police would submit that since the petitioner did not appear before the Court on 20.07.2023, 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



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petitioner, the petitioner is directed to surrender before the Judicial Magistrate Court No.V, Tirunelveli 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 Court No.V, Tirunelveli, is directed to consider the said petition on merits and pass orders on the same day.

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

sd/-

09/01/2024

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/01/2024

Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TSG

TO

1 THE JUDICIAL MAGISTRATE NO.V,
TIRUNELVELI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE,
MUNNEERPALLAM POLICE STATION,
TIRUNELVELI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.S.SIVAKUMAR, Advocate (SR-372[I] dated 09/01/2024)

<https://www.mhc.tn.gov.in/judis>



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ORDER

IN

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Date :09/01/2024

RS/JGB/SAR-(12.01.2024) 4P 6C

Madurai Bench of Madras High Court is issuing
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