



CRL OP(MD) No.467 of 2024

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

Wednesday, the Tenth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.467 of 2024

M.CHINNATHURAI

... PETITIONER/ ACCUSED 1

Vs

THE INSPECTOR OF POLICE
NAGAIAPURAM POLICE STATION,
THIRUMANGALAM TALUK,
MADURAI DISTRICT.
CRIME NO.68 OF 2018.

... RESPONDENT/COMPLAINANT

For Petitioner : Mr.T.S.MOHAMED MOHIDEEN Advocate

For Respondent : Mr.SS.MADHAVAN, Govt. Advocate (Crl. Side)

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

PRAYER:- To enlarge the Petitioner/Accused no.1 on bail at the event of arrest based on the nonbailable warrant issued in SC.No.89 of 2019 on the file of 5th Additional District Judge, Madurai in Cr.No.68 of 2018 on the file of the Inspector of Police.

ORDER : The Court Made the following order :-

The petitioner / A1, who apprehends arrest at the hands of the respondent



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Police for the alleged offence punishable under Sections 294(b), 353, 506 (1) of I.P.C., and Section 3(1) of Tamil Nadu Property (Prevention of Damage & Loss) Act, 1992, in S.C.No.89 of 2019, on the file of the 5th Additional District Court, Madurai, seeks anticipatory bail.

2. The petitioner was absent during the trial in S.C.No.89 of 2019, on the file of the 5th Additional District Court, Madurai. Therefore, Non-Bailable Warrant came to be issued on 05.12.2022.

3. The learned counsel appearing for the petitioner would submit that the progress of the case was not informed to the petitioner by his Advocate and due to lack of knowledge, he could not appear before the lower Court and hence, NBW was issued against him on 05.12.2022. However, his non appearance is neither wilful nor wanton.

4. The learned Government Advocate (Crl.Side) would submit that since the petitioner did not appear before the trial Court, the absconding charge sheet has been filed. Thereafter, non bailable warrant was issued against him on 05.12.2022.

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



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does not at all arise.

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6. Considering the fact that non bailable warrant is pending against the petitioner, the petitioner is directed to surrender before the 5th Additional District Court, Madurai, 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 5th Additional District Court, Madurai, 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/-
10/01/2024

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/01/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS
TO

1 THE 5th ADDITIONAL DISTRICT JUDGE, MADURAI

2 THE INSPECTOR OF POLICE
NAGAIHPURAM POLICE STATION,
THIRUMANGALAM TALUK, MADURAI DISTRICT.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

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+1 CC to M/s.T.S.MOHAMED MOHIDHEEN, Advocate (SR-606[I] dated 11/01/2024)

ORDER
IN
CRL OP(MD) No.467 of 2024
Date :10/01/2024

SA/VR/SAR. /18.01.2024/4P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.