



CRL OP(MD) No.2428 of 2024

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

Friday, the Sixteenth day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.2428 of 2024

SHAM PRABHU

... PETITIONER / ACCUSED No.2

Vs

THE INSPECTOR OF POLICE
PUTHIAMPUTHUR POLICE STATION,
THOOTHUKUDI DISTRICT.
CRIME NO.81 OF 2021.

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.S.VIDHYA SAGAR, Advocate

For Respondent : Mr.S.MANIKANDAN, Govt. Advocate (Crl. Side)

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

PRAYER:

FOR ANTICIPATORY BAIL IN CRIME NO.81 OF 2021 ON THE FILE OF THE
RESPONDENT POLICE.



CRL OP(MD) No.2428 of 2024

ORDER: The Court Made the following order :-

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The petitioner / Accused No.2, who apprehends arrest at the hands of the respondent Police for the alleged offence punishable under Sections 341, 294(b), 323, 324 and 506(ii) of I.P.C. in C.C.No.250 of 2022, on the file of (*)**the District Munsif cum Judicial Magistrate, Ottapidaram** seeks anticipatory bail.

2. The petitioner was absent during the trial in C.C.No.250 of 2022, on the file of (*)**the District Munsif cum Judicial Magistrate, Ottapidaram** Therefore, Non-Bailable Warrant came to be issued on 22.09.2023.

3. The learned counsel appearing for the petitioner would submit that since the petitioner suffered ill health, he could not appear before the lower Court and hence NBW was issued against him on 22.09.2023. However, his non appearance is neither wilful nor wanton.

4. The learned Government Advocate (Crl.Side) would submit that since



CRL OP(MD) No.2428 of 2024

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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 22.09.2023.

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 District Munsif cum Judicial Magistrate, Ottapidaram** 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 **(*)the District Munsif cum Judicial Magistrate, Ottapidaram.** is directed to consider the said petition on merits and pass orders on the same day.



CRL OP(MD) No.2428 of 2024

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

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sd/-

16/02/2024

**(*)CORRECTED AS PER ORDER OF THIS
COURT DATED 26.02.2024 IN CRL OP
(MD)NO.2428 OF 2024**

/ TRUE COPY /

/03/2024

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

INDU

TO

**TO BE SUBSTITUTED WITH THE ORDER DATED 16/02/2024 ALREADY
DESPATCHED**

1. THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE, OTTAPIDARAM
- 2 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, THOOTHUKUDI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
- 4 THE INSPECTOR OF POLICE
PUTHIAMPUTHUR POLICE STATION,
THOOTHUKUDI DISTRICT.



CRL OP(MD) No.2428 of 2024

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

+1 CC to M/s.S.VIDHYASAGAR, Advocate (SR-1989[I] dated 16/02/2024)

ORDER
IN
CRL OP(MD) No.2428 of 2024
Date :16/02/2024

SS/GS/SAR- /21/02/2024/4P/7C
RK/VR (06.03.2024) 4P/7C

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