



CRL OP(MD) No.3905 of 2024

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

Tuesday, the Twelfth day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.3905 of 2024

MUTHU @ MARUTHAMUTHU @ MARUTHUPANDIYAN

... PETITIONER / ACCUSED No.5

Vs

THE INSPECTOR OF POLICE
NAZARETH POLICE STATION,
THOOTHUKUDI DISTRICT.
CRIME NO. 175/2013

... RESPONDENT / COMPLAINANT

For Petitioner : M/S. MURUGESAN.M 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. 175 OF 2013 ON THE FILE OF
THE RESPONDENT POLICE.

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 392 of IPC



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@ 395 of IPC in S.C.No.11 of 2023, on the file of the I Additional District Court, Thoothukudi, in Crime No.175 of 2013 on the file of the respondent police, seeks anticipatory bail.

2. The petitioner was absent during the trial in S.C.No.11 of 2023, on the file of the I Additional District Court, Thoothukudi. Therefore, Non-Bailable Warrant came to be issued on 23.01.2024.

3. The learned counsel appearing for the petitioner would submit that though the petitioner has duly informed his counsel to file a petition under Section 317 of Cr.P.C., for condoning his absence before the trial Court, his counsel has failed to file the same. Hence NBW was issued against him on 23.01.2024. 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 23.01.2024.



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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 I Additional District Court, Thoothukudi, 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 I Additional District Court, Thoothukudi, 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/-

12/03/2024

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/03/2024

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

SJI



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TO
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- 1 THE I ADDITIONAL DISTRICT JUDGE, THOOTHUKUDI.
- 2 THE INSPECTOR OF POLICE
NAZARETH POLICE STATION, THOOTHUKUDI DISTRICT
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.M.MURUGESAN, Advocate (SR-3040[I] dated 12/03/2024)

ORDER
IN
CRL OP(MD) No.3905 of 2024
Date :12/03/2024

SS/GS/SAR- /14/03/2024/4P/5C

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