



Crl.O.P.(MD)No.19578 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.19578 of 2024

Ramamoorthy

... Petitioner

Vs.

The State, Rep. by
The Inspector of Police,
District Crime Branch,
Theni District.
(Crime No.6 of 2020)

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to direct the respondent to execute the Non-bailable warrant pending as against the accused in C.C.No.168 of 2021, on the file of the Judicial Magistrate Court, Theni District, and consequently, direct the learned Judicial Magistrate, Theni District, to expedite the trial in C.C.No.168 of 2021, within the time stipulation as fixed by this Court.

For Petitioner : Mr.R.L.Dhilipan Pandian

For R1 : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



Crl.O.P.(MD)No.19578 of 2024

WEB COPY

ORDER

This order has to be read in conjunction with and in continuation of earlier proceedings made in the previous listing on 13.11.2024, which reads as follows:-

"The petitioner/defacto complainant has given a complaint against Arunadevi and Thangaraj and later after completion of investigation charge sheet was filed in C.C.No.168 of 2021 against three persons including one more accused Nagakumar.

2. The petitioner is the Chairman of Balamurga Motors in which the accused persons were employed. During their employment in a deceitful manner had misappropriated a sum of Rs.25,29,500/- on various heads. by creating forged receipts. The respondent police arrested A1 in this case during December 2020. Since it was a corona period the Sessions Court in Crl.M.P.No.3761 of 2020 has granted interim bail till 22.12.2020 and on 15.12.2020 the matter was referred to mediation, however no settlement could be arrived therefore by an order dated 23.12.2020 the interim bail granted was dismissed and the learned Judicial Magistrate, Theni, issued Nonailable Warrant to secure the A1 and send him to prison. A2 in this case was arrested and let out on bail. In the interregnum period investigation was completed charge sheet



Crl.O.P.(MD)No.19578 of 2024

was filed and the same was taken on file in C.C.No.168 of 2021.

The trial in this case has not been progressed since A1 failed to appear. A2 and A3 periodically appeared and the respondent police has not taken steps to secure A1 against whom specific order has been issued by the Courts below. A1 has filed anticipatory bail application before this Court in Crl.O.P(MD)No.16302 of 2024 claiming that he is entitled for anticipatory bail since he has been searched on the strength of Non Bailable Warrant and after filing charge sheet the purpose of Non Bailable Warrant he was granted anticipatory bail.

3. The petitioner as an intervenor appeared in this case and made his objection the same was recorded. Finally this Court finding that the petitioner is an absconding accused not abiding by the order of this Court not entitled for interim bail and the interim bail has been cancelled. Despite the same, the respondent police is yet to take steps by forming special team or assign the work to any dedicated police officer to secure A1. According to the petitioner's information A1 is very much available and he is also in touch with his family members and A2 and A3. All the three persons have contacted each other and had swindled several lakhs of money and thereafter misappropriated the same.

4. Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor takes notice on behalf of the respondent and seeks time to file status report with regard to the steps being taken to



CrI.O.P.(MD)No.19578 of 2024

secure A1 and about the status of the case and also inform whether special team has formed or the case has been assigned to dedicated to any officer to secure A1.

5. Post on 27.11.2024."

2. Pursuant to the above-mentioned order, the learned Additional Public Prosecutor has today filed a status report, stating that A1 and A2 in this case had joined the company and misappropriated company funds to the tune of Rs.69,00,000/-. Upon receipt of the complaint, a case was registered, and both A1 and A2 were remanded to judicial custody. A1 filed a petition in Cr.M.P.No.3761 of 2020, and interim bail was granted. Although the interim bail was granted on the ground of an amicable settlement, finding no progress in the matter, the petition was dismissed by order dated 23.12.2020, with a direction for A1 to surrender before the learned Judicial Magistrate, Theni, failing which, the learned Judicial Magistrate was directed to issue a non-bailable warrant for A1's arrest. Thereafter, A1 failed to surrender, and as the bail was granted for a short period, a non-bailable warrant was issued.



Crl.O.P.(MD)No.19578 of 2024

WEB COPY

3. In the meantime, A1 filed a petition seeking anticipatory bail in Crl.O.P.(MD)No.5 of 2021 before this Court, which was dismissed as withdrawn on 27.01.2021. Subsequently, A1 filed another anticipatory bail petition in Crl.O.P.(MD)No.16302 of 2024, which was also dismissed by order dated 03.10.2024. The investigation has been completed, 39 witnesses listed in the final report, and the case has been taken on file in C.C.No.168 of 2021. The respondent Police then formed a special team, and ultimately, the non-bailable warrant was executed, resulting in A1's arrest on 20.11.2024. A1 has since been remanded to judicial custody.

4. In view of the above, the first part of the petitioner's prayer for securing A1 has been complied with, and A1 is now in judicial custody. All the accused are currently attending the trial in C.C.No.168 of 2021. The learned Judicial Magistrate, Theni, is directed to complete the trial as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.



Crl.O.P.(MD)No.19578 of 2024

WEB COPY

5. With the above direction, this Criminal Original Petition is disposed of.

27.11.2024

NCC : Yes / No
Index : Yes / No
smn2

To

- 1.The Judicial Magistrate,
Theni District.
- 2.The Inspector of Police,
District Crime Branch,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.19578 of 2024

M.NIRMAL KUMAR, J.

smn2

Order made in
Crl.O.P.(MD)No.19578 of 2024

Dated: 27.11.2024