

In the Court of Vacation Sessions Judge, Kanniyakumari District at Nagercoil.

Present : Thiru B. Karthikeyan, B.L.,
Vacation Sessions Judge/Principal Sessions Judge,
Kanniyakumari at Nagercoil.

Wednesday, the 8th day of May, 2024.

Crl.M.P. No.35/2024

(CNR.No.TNKK00-000060-2024)

Viji @ Thanga Vijayakumar S/o. Thangappan (A2)

..Petitioner

/Vs./

Inspector of Police,

Kotticode Police Station,

Crime No.254/2011 of Kotticode Police Station,

Rep. by P.P. Nagercoil.

.. Respondent

This petition is filed by Advocate Tmt. S. Sumitha, u/s 439 Cr.P.C.,
praying to grant bail to the petitioner.

ORDER

Heard both sides. Perused the petition.

The petitioner/accused alleged to have been committed the offence u/s
294(b), 397 and 506(ii) of IPC.

The learned counsel for the petitioner submitted that the case has been
charge sheeted and taken on file as S.C No.36/2013 pending before the Assistant
Sessions Court, Padmanabhapuram and the case is pending for trial. On 15.11.2023
due to his illness, the petitioner failed to appear before the trial court and due to his

non appearance, the learned Assistant Sessions Judge issued Non Bailable Warrant against the petitioner and on execution of warrant, the petitioner was arrested by the respondent police on 05.02.2024 and the earlier bail application in CrI.M.P. No.1842/2024 was dismissed by the Principal Sessions Judge, Nagercoil on 26.03.2024 and petitioner undertakes to appear before the court in future and the petitioner is ready to abide by any condition and prayed for bail to the petitioner.

The learned Public Prosecutor opposed the application and submitted that this petitioner is A2 in S.C No.36/2013 on the file of Assistant Sessions Court, Padmanabhapuram. On 30.03.2022 this petitioner did not appear before the court and the learned Assistant Sessions Judge issued Non Bailable Warrant against him and subsequently this petitioner filed a petition in CrI.M.P.No.394/2022 u/s 70(ii) of Cr.P.C., to recall warrant and the warrant was recalled by the Assistant Sessions Judge. Again on 12.10.2022 the case was posted for examination of L.W.1 to L.W.3. and on that date L.W.1. and L.W.2. were present before the court, but this petitioner did not appear and no representation for the petitioner. So the learned Assistant Sessions Judge issued Non Bailable Warrant against the petitioner. Subsequently this petitioner filed a petition in CrI.M.P.No.27/2023 u/s 70(ii) of Cr.P.C., to recall warrant and the warrant was recalled by the Assistant Sessions Judge. Again on 15.11.2023 the case was posted for examination of L.W.2 to L.W.5. were present and on that date L.W.2 and L.W.4. were present, 1st accused was also present, but this petitioner did not appear before the court and no representation for

the petitioner. So the witness could not be examined and Non Bailable Warrant was issued against this petitioner. Subsequently this petitioner was arrested by the police on 05.02.2024 and the case was posted on 24.04.2024 and on 24.04.2024 L.W.4 and L.W.5 were examined as P.W.2 and P.W.3. and case stands posted on 05.06.2024 for examination of L.W.2., 3, 6 to 9 and the petitioner has six previous cases and if this petitioner is released on bail, definitely he will abscond and he will not co-operate for trial and he has serious objection to grant bail to the petitioner and the petition may be dismissed.

Considered the argument of the learned Public Prosecutor. Trial has commenced and is in midway and due to the non appearance of the petitioner/accused, several times the learned Assistant Sessions Judge issued Non Bailable Warrant against the petitioner, this court is not convinced that the present petitioner/accused will be available for the trial in the event of release on bail and the earlier bail petition was dismissed on 26.03.2024 and there is no change of circumstances, this court is not inclined to grant bail to the petitioner/accused. Hence, this petition is dismissed.

In the result, this petition is dismissed.

Pronounced by me in open court this the 8th day of May, 2024.

Vacation Sessions Judge.