

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.

Thursday, the 16th day of May, 2024.

CrI.M.P. No.120/2024

(CNR.No.TNKK0V-000213-2024)

Ebin S/o. Thiruthuva Raj (A1)

.. Petitioner

/Vs./

Inspector of Police,

Nesamony Nagar Police Station,

Crime No.42/2022 of Nesamony Nagar Police Station,

Rep. by Public Prosecutor, Nagercoil.

.. Respondent

This petition is filed by Advocate Thiru A. Paul Raj, u/s 438 Cr.P.C.,
praying to grant anticipatory bail to the petitioner.

ORDER

Heard both sides. Perused the petition.

The case has been registered under Man Missing of Non Act, 120(B),
201, 302 and 364 of IPC.

The learned counsel for the petitioner submitted that originally the case
was registered by the Palavoor Police Station in Crime No.61/2022 u/s 174 Cr.P.C.

and subsequently the case was transferred to the respondent police and section was altered u/s 302 of IPC and the respondent police arrested the accused and got confession statement from him and on that basis, the respondent police registered the case against the petitioner and another in Crime No.42/2022 u/s Man Missing of Non Act, 102(B), 201, 302 and 364 of IPC. Originally, the petitioner was released on bail by Judicial Magistrate No.II, Nagercoil as per order in CrI.M.P. No.5088/2022, dated 08.06.2022 and now the case was charge sheeted and taken on file as PRC No.123/2022 and the same was posted for committal proceedings and on 16.05.2023, the petitioner could not appear for committal proceedings before the court and the Judicial Magistrate No.II, Nagercoil issued NBW issued against the petitioner and surety action was taken against the sureties on 18.03.2024 and bail and bonds are stands to be cancelled and the petitioner is ready to abide by any condition and prayed for anticipatory bail to the petitioner.

The learned Public Prosecutor opposed the application and submitted that NBW issued by the Judicial Magistrate No.II, Nagercoil on 16.05.2023 and therefore, the petition may be dismissed as not maintainable.

Considering the fact that the case has been charge sheeted and NBW was issued against the petitioner by the Judicial Magistrate No.II, Nagercoil on 16.05.2023 and now the petitioner has approached this court for anticipatory bail, this court is of the view that this petition is not maintainable. This view is fortified by the decision of Hon'ble Supreme Court in *Srikant Upadhyay and other Vs. State of Bihar and others* reported as *2024 INSC 202*. Hence, this petition is dismissed.

In the result, this petition is dismissed.

Pronounced by me in open court this the 16th day of May, 2024.

Vacation Sessions Judge.