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CRL OP(MD)



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28/02/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.847 of 2023

1. K.Selvakumar

2. S.Thenmozhi

... Petitioners/Accused No.1&2

Vs

The Sub Inspector of Police,
All Women Police Station,
Aruppukottai,
Virudhunagar District
(Crime No.16 of 2022).

... Respondent/Complainant

For Petitioners : M/s.Naveen Kumar.G, Advocate

For Respondent : Mr.A.Albert James (R1)
Government Advocate (Crl.Side)

Ms.S.Meena(R2), Advocate

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

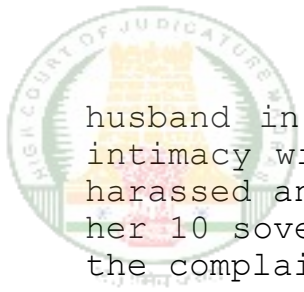
PRAYER :-

For Anticipatory Bail in Crime No.16 of 2022 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioners/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 498(A), 506(i), 109 of I.P.C and Section 4 of TNPHW Act, in Crime No.16 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant viz., Azhagu Tamilarasi is that she was in love with her aunt's son/A1 for the past six years and she married him on 13.09.2022. At the time of marriage, 10 sovereigns of gold jewels and 10 gold articles were given to her. She was living with her



husband in his house. While so, her husband had developed intimacy with one Thenmozhi, D/o.Sekar. On her instigation, A1 had harassed and tortured her. A1 is working in Indian Army and he took her 10 sovereigns of gold jewels with him and harassed her. Hence, the complaint.

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3. The learned counsel for the petitioners submitted that the petitioners are innocent and a false complaint has been foisted against them. Originally, A1 had earlier married the second accused and subsequently, as per A1's mother compulsion, he had married the defacto complainant on 13.09.2022. Hence, prays to release the petitioners on anticipatory bail.

4. The learned Government Advocate (Crl.Side) submitted that in this case, earlier A1 had married the defacto complainant and subsequently, he had developed illegal intimacy with the second accused and married her. They have harassed the defacto complainant and took away her 10 sovereigns of gold jewels. Hence, prays to dismiss the petition.

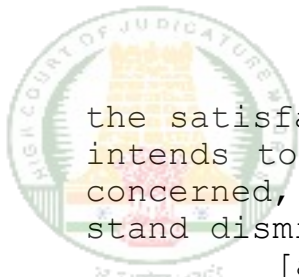
5. The learned counsel for the intervenor would submit that A1's mother also vouches for the first marriage between A1 and the defacto complainant. Considering the gravity of the offence, prays to dismiss the petition.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. It is a case, where A1, who is a military man had married the defacto complainant and once again married the second accused. Today, A1's mother and the defacto complainant appeared before this Court. The mother of A1 has stated that the marriage between the defacto complainant and her son was the first marriage and later, A1 had married the second accused. Considering the gravity of the offence attributed against the first petitioner, this Court is not inclined to grant anticipatory bail to the first petitioner. Hence, this Criminal Original Petition is dismissed, in respect of first petitioner.

8. Taking into consideration the facts and circumstances of the case and the fact that the second petitioner is the second wife of the first petitioner, this Court is inclined to grant anticipatory bail to the second petitioner with certain conditions.

9. Accordingly, this Criminal Original Petition is partly allowed and the second petitioner is ordered to be released on bail in the event of arrest or her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate, Aruppukottai**, on condition that the second petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to



the satisfaction of the respondent police or the police officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the second petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the second petitioner shall report before the respondent police everyday at 10.30 a.m., until further orders;

[c] the second petitioner shall not tamper with the evidence or witness either during investigation or trial;

[d] the second petitioner shall not abscond either during investigation or trial;

[e] on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the second petitioner in accordance with law, as if the conditions have been imposed and the second petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji Vs. State of Kerala [(2005) AIR SCW 5560]**; and;

[f] if the accused/ second petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

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/03/2023

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

pnm

TO

1. THE JUDICIAL MAGISTRATE,
ARUPPUKOTTAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR.

3 THE SUB INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ARUPPUKOTTAI,
VIRUDHUNAGAR DISTRICT



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

+1 CC to M/s.G.NAVEENKUMAR, Advocate (SR-3182[I] dated 02/03/2023)

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ORDER

IN

CRL OP(MD) No.847 of 2023

Date :28/02/2023

RK/BUC/SAR-1(09/03/2023) 4P/6C