



CRL OP(MD). No.16850 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/09/2023

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

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Victor Singh

... Petitioner/ Accused No.1

Vs

State Rep.by
The Inspector of Police,
All Women Police Station,
Colachel,
Kanyakumari District.
(Crime No.5 of 2017).

... Respondent/ Complainant

For Petitioner : Mr.C.Saravanakumar, Advocate.

For Respondent : Mr.S.Manikandan, Government Advocate (Crl.Side).

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

PRAYER :-

To enlarge the petitioner on bail in the event of his arrest in connection with C.C.No.325 of 2020 on the file of the learned Judicial Magistrate Court No.II, Kuzhithurai in Crime No.5 of 2017 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/ Accused, apprehending arrest at the hands of the respondent

Police for the alleged offence punishable under Sections 498(A), 406 and Section 4 and



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6 of Dowry Prohibition Act, 1961, in Crime No.5 of 2017 on the file of the respondent

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Police, seeks anticipatory bail.

2.On the basis of the complaint lodged by the defacto complainant, investigation was conducted and Final Report has been filed stating that the marriage between the defacto complainant and the accused took place on 28.05.2007 as per the family and customary rites. At that time of marriage, sufficient sridhana articles, jewels and cash were given. After the marriage, they went to Tiruppur and lived there. The accused received the jewellery from the defacto complainant, pledged the same. He used to come to the house in a drunken mood and assault the defacto complainant. In the mean time, she became pregnant and came to her parental home. On 24.06.2008, a male child was born. But the accused, never turned up to see the child and no maintenance was also given. After the compromise, he took the child and the defacto complainant to Tiruppur. Later also, he continued the very same harassment. He received the jewellery from the defacto complainant and pledged the same for constructing a house. Again she became pregnant, and second child was born on 02.12.2011. Again, the very same conduct exhibited by the accused. Later, she was taken to the matrimonial home. At that time, he demanded money for the purpose of completing the construction work. Rs.1,92,000/- was paid by her parents. Later, Rs.3,26,200/- was also given. Even after receiving the 70 sovereigns of gold and



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Rs.2,50,000/-, the accused did not return the same.

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3. During the course of investigation, the petitioner moved an anticipatory bail application before this Court in CrI.O.P(MD) No.8109 of 2017, that was allowed with certain conditions. But the petitioner could not comply the above said conditions. So, he filed an application for modification, that was dismissed, but time was extended for complying the conditions. Because of miscommunication by the Advocate on record, the petitioner was not able to comply the conditions by producing sureties.

4. The petitioner filed IDOP No.233 of 2017 before the Additional District and Sessions Court, Fast Track Court, Nagercoil, seeking restitution of conjugal rights. The maintenance application was also filed by his wife. In the above said proceedings, the property worth about Rs.1,00,00,000/- was attached by the Court. After filing of the Final Report, he again moved Principal District and Sessions Court, Kanniyakumari District at Nagercoil, for anticipatory bail, that was also allowed with conditions. Later, the defacto complainant moved Cr.M.P.No.4343 of 2021 seeking cancellation of anticipatory bail granted to the petitioner, by the order dated 13.12.2021. Warrant has been issued against the order dated 15.12.2021 that was not intimated to him. Seeking anticipatory bail, again this petition has been come to be filed.

5. Narration of the above said facts show that on more than one occasions, the



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petitioner was granted anticipatory bail. He has not complied the conditions because of improper communication cannot be taken into account at all. The petitioner ought to have followed his case by making enquiry with his Advocate. But he failed to do so. One of the main conditions imposed upon the petitioner in CrI.O.P(MD) No.8109 of 2017 is that 18 sovereigns of gold jewels should redeemed and handed over to the defacto complainant. Even while getting the second anticipatory bail, the learned Principal District and Sessions Judge, Kanniyakumari, stated the above said facts. On that ground only, the anticipatory bail was cancelled by the learned Principal District Judge, Kanniyakumari, stating that the material fact is sufficient enough to cancel the same. I find no error in that order. In spite of issue of Non Bailable Warrant, the petitioner is not in a position to appear before the concerned Court and get the warrant recalled.

6. When anticipatory bail was cancelled, unless a new or fresh ground is available, this petition cannot be entertained. Conduct of the petitioner right from the beginning, does not inspire any confidence at all. He has taken the Court proceedings to his advantage to the maximum extend possible. But such sort of attitude cannot be encouraged. The petitioner has to surrender before the concerned trial Court and seek regular bail.



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7. With the above said direction, this Criminal Original Petition is dismissed.

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

INDU
TO

1 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,
COLACHEL, KANAYAKUMARI DISTRICT.

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

COPY TO

THE JUDICIAL MAGISTRATE NO.II,
KUZHITHURAI.

ORDER IN
CRL OP(MD) No.16850 of 2023
Date :20/09/2023

RS/DD/SAR-(20.11.2023) 5P 4C
Madurai Bench of Madras High Court is issuing
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