



CrI.O.P.No.601 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

CORAM

THE HON'BLE MR. JUSTICE **C.V.KARTHIKEYAN**

CrI.O.P.No.601 of 2024
and CrI.M.P.No.722 of 2024

Muneer Ahmed

...petitioner

Vs.

State represented by
The Inspector of Police,
W-19 Adyar All Women Police Station,
Chennai.
Crime No.11 of 2022.

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in C.C.No.2947 of 2023 on the file of the IX Metropolitan Magistrate, Saidapet, Chennai.

For petitioner : Mr.R.Prem Anandhan for
Mr.James

For Respondent : Mr.L.Baskaran
Government Advocate (crl.side)

For Intervenor : Mr.C.Senapathi

ORDER



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The petitioner seeks bail in C.C.No.2947 of 2023 now pending trial before the learned IX Metropolitan Magistrate, Saidapet, Chennai.

2.Originally, the petitioner was arrested and remanded to judicial custody on 03.10.2023 for the offences punishable under Sections 406, 509, 498A, 323 and 506(1) of IPC and Sections 3 and 4 of the Muslim Women Prevention of Rights on marriage Act, 2019 in Crime No.11 of 2022 on the file of the respondent police.

3.The petitioner herein was the husband of the defacto complainant. It is contended that the petitioner and the defacto complainant had got married on 20.12.2015 and they were staying together and later, had gone abroad and in the year 2021, they appear to have had marital differences and the defacto complainant had come back to this country. One of the reason for the marital discord was that the petitioner, apparently had granted divorce to his own wife by typing the words 'Talaq' three times and sending it to her through Whatsapp. The said issuance of Talaq in that particular manner is illegal, void and non-est in the eye of law. The issue is no longer *res integra* and had been settled by the Constitution Bench of the Hon'ble Supreme Court in the Judgment reported in **2017 9 SCC 1** in the case of ***Shayara Bano Vs.***



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Union of India and Others, and connected writ petitions.

4.The constitution Bench of the Supreme Court of India had held as follows:

".....practice of Triple Talaq is manifestly arbitrary in the sense that the marital tie can be broken capriciously and whimsically by a Muslim man without any attempt at reconciliation so as to save it. This form of talaq must, therefore, be held to be violative of the fundamental right contained under Art.14 of the Constitution (which falls in Pt.III), Therefore, the 1937 Act, insofar as it seeks to recognise and enforce Triple Talaq, is within the meaning of the expression "laws in force" in Art.13(1) of the Constitution and must be struck down as being void to the extent that it recognises and enforces Triple Talaq."

5.It is also alleged by the learned counsel for the defacto complainant/intervenor that the mother of the defacto complainant had transferred a sum of Rs.13/- lakhs towards demand of about Rs.25/- lakhs as dowry and the defacto complainant had also handed over 45 sovereigns of gold to the petitioner herein. It is no wonder that the



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petitioner did not have the courage to face the defacto complainant in a Court of law and he rather pronounced Talaq through Whatsapp hiding behind the cell phone and he is not available and residing in a foreign country.

6.It is also stated that he had also contracted a relationship with a second lady.

7.It is stated that since he did not appear, a look out notice had been issued and thereafter he had been taken into custody.

8.The earlier petition seeking bail was dismissed on 23.11.2023 in Crl.O.P.No.25825 of 2023.

9.In this petition, on 22.01.2024, this Court had granted interim bail to the petitioner on condition that he should deposit his original passport and also handover the cash and jewels which had been received from the defacto complainant at the time of marriage. However, the petitioner was not able to comply with the said conditions and it was informed to this Court that if bail is granted, after that being released, he would take every efforts to handover cash of Rs.6,00,000/- to the defacto complainant within a period of 30 days from the date of release.

10.In view of that particular fact, the interim bail granted was



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declared to have lapsed since the condition therein had not been complied with.

11.Today, the learned counsel for the petitioner argued the applications seeking bail.

12.The learned counsel for the intervenor also pointed out the fact that the petitioner had stated a triple talaq unlawfully and also stated that the petitioner is having relationship with yet another lady.

13.The learned Government Advocate (crl.side) stated that the investigation has been completed and final report had also been filed and taken cognizance as C.C.No.2947 of 2023 and the matter is now pending before the IX Metropolitan Magistrate, Saidapet, Chennai.

14.In the affidavit filed by the petitioner, he had stated as follows:

“6.I state that I am in judicial custody for past 146 days if I am released on bail I under take the deposit sum of Rs.6,00,000/- within 30 days and without prejudice to my right to defeat to case against me I have to personally mobilize the fund and that could be done only if I am set at liberty.”

15.An affidavit had also been filed by the defacto complainant and it stated as follows:



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“3.I submit that the gold articles given to Accused No.1 are hereunder:

S.No	Description of Articles	Number of Articles	Savaran
1.	Aaram	1	12
2.	Necklace	1	7
3.	Necklace	1	3
4.	Necklace	1	3
5.	Bangles	6	10
6.	Chain	1	5
7.	Ear ring	5	12
8.	Rings	10	5
9.	Bracelet	4	8
Total		24	65

4.I submit that out of the said 65 savaran 45 savaran of gold articles listed in item 1 to 6 and 8 was taken by the accused No.1 for mortgaging it to settle the loans obtained by him in the Bank of Qatar and promised me that the jewels will be redeemed and returned back to me. And remaining 20 savaran is under the custody of Accused No.1.”

16.However the learned counsel for the petitioner raised some dispute over the possession of jewels.



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17. Let that be an issue during the course of trial.

18. Taking all the factors into consideration and the period of incarceration, I am inclined to grant bail to the petitioner subject to the following conditions.

19. Accordingly, the petitioner is ordered to be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties, each for a like sum to the satisfaction of the learned IX Metropolitan Magistrate, Saidapet, Chennai and on further conditions that :-

[a] 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 petitioner shall report before the trial Court on every Monday at 10.30 a.m., for a period of four weeks apart from the Court hearing dates.

[c] the petitioner should deposit a sum of Rs.6,00,000/- (Rupees Six Lakhs only) to the credit of C.C.No.2947 of 2023 before the IX Metropolitan Magistrate, Saidapet, Chennai on or before 31.03.2024. On such deposit, the learned Magistrate, may hand over the said amount to the defacto complainant.



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[d] It is made very clear that this deposit could not indicate that the petitioner had admitted to any of the allegations raised by the defacto complainant. It only expresses his bonafide. The defacto complainant is also at liberty to seek further damages or compensation or return of jewels and if any monetary claim is granted, this amount of Rs.6,00,000/- is to be adjusted.

[e] the petitioner shall not abscond either during investigation or trial.

[f] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[g] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the 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].

[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

20.Accordingly, this Criminal Original Petition is ordered.

Consequently, connected Miscellaneous Petition is also ordered.



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To

1. The IX Metropolitan Magistrate, Saidapet, Chennai.
2. The Central Prison, Puzhal.
3. The Inspector of Police,
W-19 Adyar All Women Police Station,
Chennai.
4. The Public Prosecutor, High Court of Madras.

C.V.KARTHIKEYAN. J.

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