



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Thirtieth day of January Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.16909 of 2014

WEB COPY

1 BALU

2 RAMESHKUMAR

3 KATHIRAYEE

..PETITIONERS/ACCUSED 1 TO 3

Vs

STATE REP.BY THE INSPECTOR OF POLICE

ALL WOMEN POLICE STATION,

SIVAGANGAI.

CR. NO.25 OF 2014.

..RESPONDENT/COMPLAINANT

For Petitioner : M/S.S.MAHENDRAPATHY Advocate

For Respondent : Mr.A.P.BALASUBRAMANI, Government Advocate (Crl.Side)

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

ORDER : The Court Made the following order :-

Apprehending arrest at the hands of the respondent police in Crime No.25 of 2014, on the file of the respondent police for offences under Sections 498A, 294(b), 355 and 506(i) of the Indian Penal Code, the petitioners are now before this Court seeking Anticipatory Bail.

2. Earlier, this matter was referred to Mediation and Conciliation Centre and the Mediation and Conciliation Centre sent a failure report dated 16.12.2014.

3.On 28.01.2015, this Court passed the following order:

"It is the case of the prosecution that the first petitioner got married to the *defacto* complainant in the year 2009 and they have two children. The family life was estranged and they got separated in the year 2013. The first petitioner has filed H.M.O.P.No.118 of 2014 against the wife for divorce. The *defacto* complainant, unable to maintain herself, has filed M.C.No.204 of 2013 before the learned Judicial Magistrate No.II, Sivagangai and the first petitioner is paying only a sum of Rs.5,000/- (Rupees Five Thousand only) for two children and for the *defacto* complainant in the maintenance proceedings. If the petitioners deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) for the welfare of the children, this Court could consider granting anticipatory bail in favour of the petitioners.

2. Post the matter on 30.01.2015 for getting instructions."

4. Today, the learned counsel for the petitioners, on instructions from the petitioners, submits that the petitioners are willing to pay a sum of Rs.50,000/- for the welfare of the children.

5. Under such circumstances, this Court is inclined to grant anticipatory bail to the petitioners, but with conditions.

6. Accordingly, the petitioners are ordered to be released on bail, in the event of arrest or on their appearance before the learned Judicial Magistrate, No.II, Sivagangai, on executing a separate 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 and on further condition that,

[a]. The petitioners shall deposit a sum of Rs.50,000/- (Rupees fifty thousand only) before the Judicial Magistrate, No.II, Sivagangai, without prejudice to their defence in the criminal case and the learned Magistrate is directed to issue notice to the de-facto complainant and disburse the same as maintenance for the welfare of the children without seeking sureties or security from her. The learned Judicial Magistrate shall accept the bail bonds only after the deposit and the petitioners are granted two weeks time to furnish the bail bond.

(b) the first petitioner shall report before the respondent police every day twice at 10.30 a.m. and 6.30 p.m. for a period of two weeks and thereafter as and when required for interrogation. The petitioners 2 and 3 shall report before the respondent police as and when required.

[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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].

[f] The Inspector of Police concerned, is directed to send compliance report to the office of the learned Government Advocate (Crl. Side), whether these petitioners are complying with the order or not.

sd/-

30/01/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

1 THE JUDICIAL MAGISTRATE NO.II, SIVAGANGAI.

2 -DO-THRO THE CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI.

3 THE ADDL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

4 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, SIVAGANGAI.

+1. CC to M/S.S.MAHENDRAPATHY Advocate SR.No.4371

ORDER IN

CRL OP(MD) No.16909 of 2014

Date :30/01/2015

PBK 02/02/2015 ::2P-6C: