



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Thirty First day of March Two Thousand Fifteen

WEB COPY

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.19451 of 2014

1 ALLAN ALEX
2 PARISUTHA MARY

... PETITIONERS / ACCUSED
[RANKS NOT KNOWN]

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PATTUKKOTTAI, THANAJVUR DISTRICT.
CRIME NO.18 OF 2014.

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.S.DEENADHAYALAN, Advocate

For Respondent : M/S.A.P.BALASUBRAMANIAN, Govt. Advocate (Crl.Side)

For Intervener : MR. A.ARUN PRASAD, Advocate

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b) and 498(A) IPC, Section 4 of Dowry Prohibition Act and Section 4 of Tamil Nadu Women Harassment Act in Crime No.18 of 2014 on the file of the respondent police, seek anticipatory bail.

2. Heard the learned counsel for the petitioners, the learned counsel for the Intervenor and the learned Government Advocate (Crl.Side) appearing for the State.

3. Initially, the matter was referred to the Mediation Centre and a failure report dated 11.03.2015 has been received there from. This petition was filed showing the Crime Number as "Not Known".

4. The respondent police have filed a status report in which they have stated that a regular case in Crime No.18 of 2014 has been registered against the petitioners for offences under Sections 294 (b) and 498(A) IPC, Section 4 of Dowry Prohibition Act and Section 4 of Tamil Nadu Women Harassment Act.



5. It is the case of the *defacto* complainant that she got married to Allan Alex (A1) / 1st petitioner herein on 23.05.2013 and at the time of marriage, she was given 20 sovereigns of gold and Rs.50,000/- worth of household articles and also a Motorcycle for the use of the first accused. It is alleged by the *defacto* complainant that she went to her parental home for delivery and thereafter a child was born to her. It is the specific allegation of the *defacto* complainant that her husband is not accepting the child and is not even permitting the Baptism of the child on the specious reasoning that the child was never born to her.

6. Learned counsel for the petitioners submitted that the *defacto* complainant cannot bear a child, as she had not even attained puberty.

7. Per contra, learned counsel for the *defacto* complainant produced sufficient medical records to show that the *defacto* complainant has delivered a female child on 23.06.2014 at Grace Nursing Home, Pattukkottai. Copies of medical reports were also given across the bar to the learned counsel for the petitioners on 24.03.2015 and the case was adjourned to 26.03.2015. Despite that it was argued by the petitioner that the *defacto* complainant is not capable of bearing a child and that she is barren.

8. This attitude of the first petitioner itself shows that the allegation made by the *defacto* complainant in her complaint that the first petitioner has been harassing her on this score, appears to have a ring of truth. Since the allegations against the first petitioner are very serious, this Court is not inclined to grant anticipatory bail to him, as custodial interrogation of the first petitioner is necessary for subjecting him to DNA profiling.

9. As regards the second petitioner, who is the mother of the first petitioner, since the allegations against her are not very serious, this Court is inclined to grant anticipatory bail to the second petitioner alone. Accordingly, the second petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Pattukkottai, on condition that the 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 and on further condition that:

[a] the second petitioner shall report before the respondent police daily at 10:30a.m. for a period of two weeks and thereafter as and when required for interrogation;

<https://hcservices.ecourts.gov.in/hcservices/>

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



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

[d] 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]**.

10. This petition in respect of the first petitioner stands dismissed.

sd/-
31/03/2015

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

TO

- 1 THE JUDICIAL MAGISTRATE, PATTUKKOTTAI.
 - 2 -DO-THRO' THE CHIEF JUDICIAL MAGISTRATE, THANJAVUR @ KUMBAKONAM.
 - 3 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, PATTUKKOTTAI, THANAJVUR DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S. A.ARUN PRASAD, Advocate SR.No.16062.
- +1. CC to M/S.S.DEENADHAYALAN, Advocate SR.No.16137.

ORDER IN
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Date :31/03/2015

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