



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

Monday, the Ninth day of February Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.19848 of 2014

1 JAYASEELAN
2 V. CHELLAM
3 SATHISHKUMAR
4 V. SAHAYARAJ

... PETITIONERS/ACCUSED RANK NOT KNOWN

Vs

STATE REP BY ITS
THE INSPECTOR OF POLICE
THEVARKULAM POLICE STATION, TIRUNELVELI DISTRICT
CRIME NO.203 OF 2014

... RESPONDENT/ COMPLAINANT

ANNAL SATHYA

... INTERVENOR

For Petitioner : M/S.M.SARAVANAN Advocate
For Respondent : M/S.A.P.BALASUBRAMANIAN'
Govt. Advocate (Crl. Side)
For Intervenor : M/S.C.ARUL VADIVEL @ SEKAR, Advocate

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

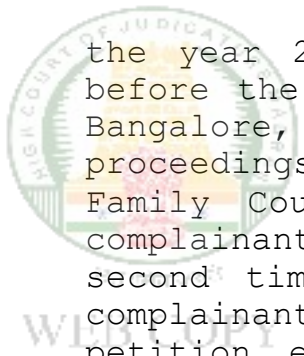
ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b), 323, 506(ii), 406, 420 of Indian Penal Code r/w Section 4 of TNPWH Act in Crime No.203 of 2014 on the file of the respondent police, seek anticipatory bail.

2. Initially the matter was referred to the Mediation and Conciliation Centre, attached to this Bench and failure report dated 05.01.2015 has been received.

3. Heard Mr.R.J.Karthick, learned counsel for the petitioners, Mr.A.P.Balasubramanian, learned Government Advocate (Criminal side) for the respondent police and Mr.C.Arul Vadivel @ Sekar, learned counsel for the intervenor.

4. It is the case of the prosecution that Jayaseelan-first petitioner herein got married to the *defacto* complainant on 20.05.2009. It is stated that the *defacto* complainant's family had given 32 sovereigns of gold at the time of marriage. The matrimonial life of the first petitioner with the *defacto* complainant ran into rough weather, on account of which, they got separated sometime in



the year 2010. The *defacto* complainant filed M.C.No.1144 of 2011 before the learned Additional Principal Judge, Family Court No.IV, Bangalore, for divorce against the first petitioner. The divorce proceedings went on upto 2013 and ultimately, on 15.02.2013, the Family Court granted *exparte* divorce in favour of the *defacto* complainant. Subsequently, the first petitioner got married for the second time. While so, sometime in November, 2014, the *defacto* complainant lodged a complaint against the petitioners herein and a petition enquiry was being conducted by the respondent police. Apprehending arrest, the petitioners filed an anticipatory bail application before this Court on 31.10.2014.

5. On 02.11.2014, the respondent police registered the First Information Report in Crime No.203 of 2014 and arrested V.Chellam-second petitioner herein and Sathishkumar-third petitioner herein. It is represented by both sides that on the very same day they were granted bail by the learned Magistrate concerned. Thus, this anticipatory bail application against V.Chellam-second petitioner herein and Sathishkumar-third petitioner herein stands dismissed, in view of their arrest.

6. Mr.C.Arul Vadivel @ Sekar, learned counsel appearing for the *defacto* complainant would very strongly object to the grant of anticipatory bail to the petitioners 1 and 4 on the ground that the first petitioner had pledged the jewels of the *defacto* complainant with the State Bank of India as early as on 26.10.2009.

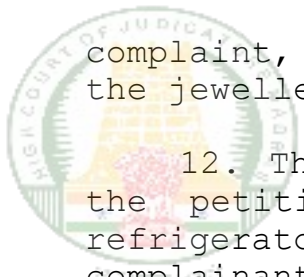
7. In this regard, the learned counsel for the petitioners would produce a letter from the State Bank of India, in which, it is stated that the jewels, that were pledged on 26.10.2009, were redeemed and closed on 19.06.2010 itself.

8. It must be seen that the *defacto* complainant had filed divorce proceedings only in the year 2011. Therefore, the learned counsel for the petitioners contends that after the jewel loan was closed, the *defacto* complainant had taken away her jewellery and that is why, there is no whisper about it in the matrimonial proceedings which she has initiated before the Family Court.

9. Per contra, Mr.C.Arul Vadivel @ Sekar, learned counsel for the *defacto* complainant would further submit that the first petitioner has once again, re-pledged the jewels on 05.08.2013 and he has also given a description of it.

10. It is seen that the *defacto* complainant, in her complaint to the police, which was registered on 02.11.2014, has merely stated that 23 sovereigns of jewellery are with the petitioners and she has not given any description thereof. Therefore, the learned counsel for the petitioners would contend that what was re-pledged was the jewellery belonging to the petitioners and not that of the *defacto* complainant.

11. On facts, it is seen that way back in the year 2013 itself, divorce has been granted in favour of the *defacto* complainant for the proceedings which was initiated in the year 2011. Even in the



complaint, the *defacto* complainant has not given the description of the jewellery.

12. The learned counsel for the petitioners would submit that the petitioners are also ready to return the articles, like refrigerator and other household articles belonging to the *defacto* complainant. His submission is recorded.

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13. Under such circumstances, this Court is of the view that this is a fit case to grant anticipatory bail to the petitioners 1 and 4. Accordingly, the petitioners 1 and 4 are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.3, Tirunelveli, on condition that the petitioners 1 and 4 shall execute 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 1 and 4 shall report before the respondent police twice a day daily at 10:30 a.m., in the morning and 06:30 p.m., in the evening for a period of two weeks and thereafter, as and when required for interrogation.

[b] the petitioners 1 and 4 shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioners 1 and 4 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 petitioners 1 and 4 in accordance with law as if the conditions have been imposed and the petitioners 1 and 4 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]**.

[e] The respondent police shall proceed with the investigation and find out whether the jewellery pledged with the State Bank of India belongs to the *defacto* complainant and if it is so, the *defacto* complainant will be entitled to return of the same.

[f] The Inspector of Police concerned is directed to send a compliance report to the Office of the learned Government Advocate (Criminal side), whether the petitioners 1 and 4 are complying with the order or not.

sd/-
09/02/2015

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



TO

1. THE JUDICIAL MAGISTRATE NO.3
TIRUNELVELI

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
TIRUNELVELI DISTRICT

3. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT
MADURAI

4. THE INSPECTOR OF POLICE
THEVARKULAM POLICE STATION, TIRUNELVELI DISTRICT.

+1. CC to M/S.M.SARAVANAN Advocate SR.No.5737

+One cc to M/S.C.ARUL VADIVEL @ SEKAR, Advocate, SR.No.5850

RL/7C - 11/2/2015

ORDER

IN

CRL OP (MD) No.19848 of 2014

Date :09/02/2015