



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

Wednesday, the First day of April Two Thousand Fifteen

PRESENT

THE HON`BLE MR JUSTICE P.N.PRAKASH

CRL OP(MD) No.3998 of 2015

1 N. PREM NAVAS  
2 A. NAUSHAD  
3 A. ASGARI BEGUM  
4 N. PREM NIVAS

... PETITIONERS/ACCUSED

Vs

THE INSPECTOR OF POLICE  
ALL WOMEN POLICE STATION, KOTTAI,  
TRICHY

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.R.JOHN SATHYAN Advocate

For Respondent : MR.A.P.BALASUBRAMANIAN, Govt. Advocate ( Crl. Side)

For Intervenor : MR.JAMMEL ARASU, Advocate

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 for offences under Sections 294(b), 498(A) and 506(i) IPC, the petitioners are now before this Court seeking Anticipatory Bail.

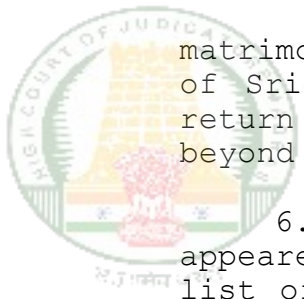
2.Since no regular case has been registered and only a petition enquiry is pending, this Court granted interim anticipatory bail to the petitioners on 05.03.2015 with a direction to the first petitioner to report before the respondent police at 5.30 p.m. everyday for a period of two weeks. The first petitioner was directed to return all the articles of the de-facto complainant through the respondent police. The interim anticipatory bail was extended subsequently on 19.03.2015, 26.03.2015 and further extended upto today.

3.Heard the learned counsel for the petitioners, the learned counsel for the de-facto complainant and the learned Government Advocate (Crl. Side) for the respondent State.

4.The learned counsel for the de-facto complainant very strongly objected to the grant of anticipatory bail to the petitioners on the ground that the petitioners forced the de-facto complainant to execute a document before the Jamath agreeing for 'Khula'.

5.The respondent police have filed a status report, in which, in paragraph No.5, 6 and 7, it is stated as follows:

<https://hcservices.ecourts.gov.in/hcservices/> V.5/hcservices/ They submit that both the parties were called for enquiry and on 13.03.2015, they appeared before me for enquiry. In the enquiry, the de-facto complainant refused to resume back



matrimonial life with the 1<sup>st</sup> petitioner and prayed for return of Sridhana articles. The 1<sup>st</sup> petitioner had also agreed to return the balance jewels and articles which were in his hand beyond those taken away by the de-facto complainant.

6.I humbly submit that on 22.03.2015, both the parties had appeared for enquiry and the 1<sup>st</sup> petitioner had produced the list of articles in his hand and the de-facto complainant had also agreed for the same and both of them undertook to appear before me on 24.03.2015. But on the said day both of them had failed to appear before me for enquiry and they appeared before the Hon'ble High Court on 26.03.2015.

7.I humbly submit that I called both the parties for enquiry to know about the status of the case and both of them had appeared for enquiry on 28.03.2015 and on that day, the de-facto complainant had gave a statement stating that she received the jewels of 25 sovereigns out of 400 and the T.C. Of minor daughter and a sum of Rs.1,70,000/- by way of demand draft in the presence of Jamathars of Woraiyur. The 1<sup>st</sup> petitioner gave a statement stating that the de-facto complainant had given 'Khula' and he also produced a xerox copy of the same."

6. Thus, it is seen that the petitioners have returned 25 sovereigns of jewelry as against the claim of 40 sovereigns by the de-facto complainant. As regards the contention of the de-facto complainant that the petitioners had forcibly obtained her signature in the Jamath for 'Khula', this Court cannot go into the validity of the document in this application for anticipatory bail. The validity of the 'Khula' document can be tested only before the civil Court. The petitioner got married to the de-facto complainant on 18.12.2005 and they have one child through the wedlock.

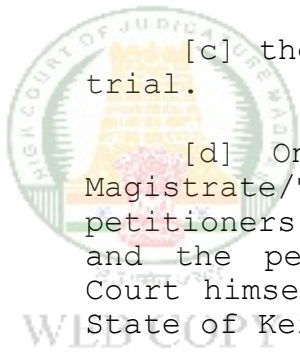
7. The Hon'ble Supreme Court in Arnesh Kumar Vs.State of Bihar has cautioned the police to be very circumspect, while exercising the powers of arrest in matrimonial offences. It is to be noted that such complaints are given more on account of emotional outburst and if any arrest is hurriedly done, it will further widen the gap between the spouses. In this case, the petitioners have returned substantial portion of the jewelry and household articles to the de-facto complainant and under such circumstances, relying upon the Judgment of the Hon'ble Supreme Court in Arnesh Kumar Vs.State of Bihar reported in 2014 (8) Scale 250, this Court is of the view that this is a fit case to grant anticipatory bail to the petitioners, but with conditions.

5. Accordingly, the petitioners 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.I, Trichy District, 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 report before the respondent police as and

<https://hoseas.courts.gov.in/hseas/>

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



[c] the petitioners 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 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].

[e] In the event of the police registering a regular case, this anticipatory bail will enure to the benefit of the petitioners and they need not have to file a fresh application for anticipatory bail.

sd/-  
01/04/2015

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE NO.I, TRICHY.
2. -DO- THRO THE CHIEF JUDICIAL MAGISTRATE, TRICHY.
3. THE INSPECTOR OF POLICE  
ALL WOMEN POLICE STATION, KOTTAI, TRICHY.
4. THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.R.JOHN SATHYAN Advocate SR.No. 16699

SR : 06.04.2015 : 3P/6C

ORDER  
IN  
CRL OP(MD) No.3998 of 2015  
Date :01/04/2015