



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

Tuesday, the Eighth day of December Two Thousand Fifteen

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

CRL OP(MD) No.7328 of 2015

ALLAN ALEX

... PETITIONER/ACCUSED No.1

Vs

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

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.S.DEENADHAYALAN Advocate
For Respondent : MR.K.ANBARASAN, Govt. Advocate (Crl. Side)
For Intervenor : A.Arun Prasad, Advocate.

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

ORDER : The Court Made the following order :-

The petitioner, who is arrayed as accused No.1, in Crime No.18 of 2014 on the file of the respondent police, apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b), 498-A of IPC and Section 4 of Dowry Prohibition Act and Section 4 of Tamilnadu Prohibition of Women Harassment Act and hence, seek anticipatory bail.

2. The case of the prosecution is that the marriage between the petitioner and the defacto complainant was solemnized on 23.05.2013 and at the time of marriage, 20 sovereigns of gold jewels and house hold articles worth about Rs.50,000/- and a motor cycle were given to the petitioner and the defacto complainant went to her parents home for delivery of the child but the petitioner did not accept the child and not permitted the child and the defacto complainant in the matrimonial home and on her complaint, a case has has been registered for the aforesaid offences.

3. The case of the petitioner is that the petitioner is an innocent person and he has not committed any offence and after marriage, she left the matrimonial home voluntarily and subsequently, the petitioner came to know about the birth of the child and the same was not informed to the petitioner and the petitioner filed Crl.O.P.No.19451 of 2015 and this Court passed the following order:

"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 TamilNadu Prohibition of



Women Harassment Act.

5. It is the case of the defacto complainant that she got married to Allan Alex (A1)/1st petitioner herein on 23.05.2012 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 defact 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, Pattukottai. 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.

4. Today when the matter was taken up, the learned Government Advocate (Crl.side) produced a report of the DNA test showing that the petitioner is the biological father of the child.

5. Considering the facts and circumstances of the case and considering the report of DNA test, I am not inclined to grant anticipatory bail to the petitioner. Hence, this petition is dismissed.

sd/-

08/12/2015

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

TO

- 1 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, PATTUKKOTTAI, THANAJVUR DISTRICT.
- 2 THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.A.ARUN PRASAD, Advocate SR.No.70084.

ORDER

IN

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Date :08/12/2015