

Crl.O.P.No.6541 of 2016**K.KALYANASUNDARAM, J.**

The petitioner apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 498(A) & 427 IPC, on the file of the respondent police, in Crime No.7 of 2016 and hence, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant is the wife of the accused and the accused had tampered the passport and tore the Visa belonging to the defacto complainant.

3. Mr.Kabir, learned Senior Counsel appearing for the petitioner would submit that the petitioner married the defacto complainant as per Mohameddan Law on 09.10.2008, which was registered in Office of the Sub-Registrar, Neelankarai, on 26.03.2009. During the lawful wedlock, they are blessed with one daughter viz. Zaina. Due to matrimonial discord, the defacto complainant left the petitioner on 08.10.2012. Later, she filed O.P.No.3109 of 2013 for dissolution of marriage before the First Additional Family Court, Chennai.

4. It is further submitted that the defacto complainant preferred a criminal complaint against the petitioner on 22.08.2013 and the petitioner was granted anticipatory bail by the learned Principal Judge, City Civil Court, Chennai on 05.11.2014 in CrI.M.P.No.11107 of 2013 and in the meanwhile, the defacto complainant filed O.P.No.749 of 2013 for the custody of the minor child and also, filed M.C.No.22 of 2015 before the XXIII Metropolitan Magistrate Court, Saidapet under Domestic Violence Act in the month of February, 2015. The petitioner was given visitation right of the minor child in the application filed in O.P.No.749 of 2013 and thereafter, the defacto complainant withdrew the main original petition on 19.11.2015. So, the petitioner instituted a separate case in O.P.No.4597 of 2015 before the II Additional Family Court for custody of the minor child and also, filed an application for visitation rights. While so, the present complaint was given alleging that the petitioner has tampered the passport and also, tore her Visa.

5. The learned Senior Counsel would further submit that the petitioner is an innocent person and he is the proprietor of Jewellery shop and he is having movable and immovable properties and he will not evade justice and therefore, he may be granted anticipatory bail.

6. Per contra, Mr.S.Y.Masood, learned counsel appearing for the intervenor vehemently opposed to grant anticipatory bail contending that the accused had caused both the mental and physical cruelty against his wife and to prevent her from visiting his son in USA and he has torn the Visa. It is further submitted that the accused himself has admitted the offence in the E.mail communication sent to his son and therefore, he is not entitled for any indulgence of this Court.

7. In reply, the learned Senior Counsel for the petitioner would submit that the petitioner is ready to co-operate with the defacto complainant for obtaining her Visa and he is willing to sign necessary documents for issuance of USA Visa for the defacto complainant.

8. Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned XXIII Metropolitan Magistrate, Saidapet, Chennai and on executing 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 learned Magistrate concerned and on

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further condition that the petitioner shall appear before the respondent police daily at 10.00 a.m for a period of two weeks and further condition that the petitioner shall extend his co-operation for obtaining visa for the defacto complainant. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

10. The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail stands dismissed.

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