

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Fourth day of May Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL ORIGINAL PETITION No.9750 of 2017

SARAVANAN

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE NAGAPATTINAM POLICE STATION
NAGAPATTINAM DISTRICT
CR.NO.3 OF 2017.

[RESPONDENT]

For Petitioner : M/S.J.JAWAHAR Advocate

For Respondent : MR. M.MOHAMED RIYAZ, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 498A IPC and Sections 4 of the Prohibition of Women Harassment Act, and Section 4 of the Prohibition of the Dowry Act, in Crime No.3 of 2017 on the file of the respondent police, seeks anticipatory bail.

2.The learned counsel for the petitioner submits that the petitioner has nothing to do with the alleged offences.

3. The case of the prosecution is that the husband of one Gayathri / defacto complainant demanded dowry and a complaint was made against him; the husband was suffering from paralysis attack; therefore, the petitioner and other community head tried to advice the defacto complainant to live with her husband, out of good intention; however, the defacto complainant refused and lodged a complaint against the petitioner herein.

4. The learned Government Advocate (Crl. Side) submitted that there are totally six accused in this case and this petitioner, is the sixth accused, who is the sister's son of the first accused; the first accused has already granted anticipatory bail.

5. It is a common experience and knowledge that most of the complaints are filed in the heat of the moment over trifling fights and ego clashes. It is also a matter of common knowledge that in their tussle and ongoing hostility the hapless children are the worst victims. Before a wife moves to file a complaint with the Women Cell, a lot of persuasion and conciliation is required.

5. The Honourable Supreme Court of India in the case of ***K.Srinivas Rao vs. D.A.Deepa (in Civil Appeal No.1794 of 2013, dated 22.02.2013)*** has given the following mandate for the criminal courts.

"The criminal courts dealing with the complaint under Section 498-A of the IPC should, at any stage and particularly, before they take up the complaint for hearing, refer the parties to mediation centre if they feel that there exist elements of settlement and both the parties are willing. However, they should take care to see that in this exercise, rigour, purport and efficacy of Section 498-A of the IPC is not diluted. Needless to say that the discretion to grant or not to grant bail is not in any way curtailed by this direction. It will be for the concerned court to work out the modalities taking into consideration the facts of each case."

6. To salvage and save the institution of marriage and the matrimonial homes of the couples, the Hon'ble Delhi High Court has issued direction to the Police authorities, which reads as under:

"(i) No case under Section 498-A/406 IPC should be registered without the prior approval of DCP/Addl. DCP.

(ii) Arrest of main accused should be made only after thorough investigation has been conducted and with the prior approval of the ACP/DCP.

(iii) Arrest of the collateral accused such as father-in-law, mother-in-law, brother-in-law or sister-in-law etc should only be made after prior approval of DCP on file."

7. Considering the facts and circumstances, anticipatory bail granted to the petitioner.

7.1. Accordingly, the petitioner is ordered to be released on bail/ordered to be released in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order before the learned Judicial Magistrate No.II, Mayiladuthurai, 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 petitioner shall report before the respondent police on every Monday and Wednesday at 10.30 a.m. for a period of four weeks and thereafter as and when required for interrogation.

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

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

[d] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is authorised to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner was released on bail by the learned Magistrate/Trial Court as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

-sd/-

24/05/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO. II, MAYILADUTHURAI.

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM DISTRICT. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE NAGAPATTINAM POLICE STATION
NAGAPATTINAM DISTRICT

+1CC to M/S.J.JAWAHAR Advocate on payment of necessary charges SR.NO. 9553

CRL OP.9750/2017

Date :24/05/2017

EGR 29/05/2017