

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.10.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.23785 of 2018

K.Babu

.. Petitioner

Vs

State rep. by

The Sub Inspector of Police,
All Women Police Station,
Namakkal,
Namakkal District.

.. Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to direct the Sub Inspector of Police, All Women Police Station, Namakkal or through the Superintendent of Police, Namakkal to permit the petitioner to go abroad namely to visit Dubai and Quatar pending investigation in Cr.No.4 of 2017 on the file of the Sub Inspector of Police, All Women Police Station, Namakkal.

For Petitioner : Mr.K.V.Sridharan
For Respondent : Mrs.M.Prabhavathi, APP

O R D E R

This petition has been filed to direct the respondent to permit the petitioner to go abroad to visit Dubai and Quatar, pending investigation in Cr.No.4 of 2017 on the file of the respondent.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and perused the materials placed on record.

3.Today Ms.R.Matheswari attached to AWPS, Namakkal is present before this Court.

4.On the complaint lodged by Nithya, the respondent Police have registered a case in Crime No.4 of 2017 on 18.05.2017 under Section 498A and 506(1) IPC against the petitioner herein. At the time of registration of the FIR, the respondent Police have issued a Look Out Circular to the immigration authorities to prevent the petitioner going abroad. The petitioner filed Crl.O.P.No.12020 of 2018 for anticipatory bail under Section 438 Cr.P.C. and this Court by

order dated 26.04.2018, has granted him the relief with the following conditions :

"7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate No.IV, Namakkal, within a period of 15 days from the date of receipt of a copy of this order, on his 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a] if the petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

[b] the petitioners shall report before the respondent police daily at 10.30 a.m., for a period of two weeks thereafter as and when required.

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

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

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC."

5.The petitioner surrendered before the learned Judicial Magistrate No.IV, Namakkal and has executed the requisite bond with sureties. On instructions, learned Additional Public Prosecutor submitted that the petitioner has also complied with the condition No.7(b) by reporting before the Police at 10.30 a.m. for two weeks. However, learned Additional Public Prosecutor submitted that investigation has been completed and Final Report is ready and to be filed before the jurisdictional Magistrate.

6.Mr.K.V.Sridharan, learned counsel submitted that the petitioner has to go to the Middle East for his business and on account of the Look Out Circular, he has not been able to take the trip.

7.Taking into consideration the nature of the allegations in the FIR and the fact that the petitioner has been released on anticipatory bail, this Court directs the respondent Police to immediately recall the Look Out Circular. However, the petitioner shall file an affidavit before the Additional Mahila Court, Magisterial Level, Namakkal, giving his itinerary, place of stay and probable date of return. A copy of the affidavit shall also be given to the respondent Police. It is not necessary for the petitioner to obtain permission from the learned Magistrate, but he is required to keep the learned Magistrate informed about his movements, as and when he intends going abroad. When the petitioner is going abroad, he shall make arrangements to see that the counsel appointed by him conducts the trial in his absence and cross-examine the witnesses on the day, they are examined in-chief. The petitioner shall not dispute his identity.

With the above direction, this petition is closed.

Sd/-
Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1.The Additional Mahila Court,
Magisterial Level, Namakkal.

2.The Superintendent of Police,
Namakkal District.

3.The Sub Inspector of Police,
All Women Police Station,
Namakkal,
Namakkal District.

4.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.K.V.Sridharan,advocate,sr.70175.

Krd 23/10