

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Sixth day of November Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION No.27338 of 2018

1 S.ARUNPRASAD
2 S.RAJESWARI

[PETITIONERS / ACCUSED]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
W-19 ALL WOMEN POLICE STATION,
ADAYAR, CHENNAI.
CR.NO.5 OF 2018.

[RESPONDENT]

For Petitioner : M/S.D.NANDAGOPAL Advocate

For Respondent : MRS.PRABHAVATHI, ADDL. PUBLIC PROSECUTOR

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent-police for the alleged offences punishable under Sections 417, 420 and 506(i) of IPC in Crime No.5 of 2018, seek anticipatory bail.

2. Heard both sides.

3. The case of the prosecution is that the first petitioner is the son of the second petitioner and it is alleged that he is living together and having relationship with the defacto-complainant for the past three years and the defacto-complainant invested her money of Rs.1,00,000/- and started Ready made Garment business, along with the first petitioner. Due to loss incurred in the business, the first petitioner closed the shop and ran away with the amount invested by the defacto-complainant. Hence, the complaint.

4. The learned counsel for the petitioners would submit that the first petitioner and the defacto-complainant, both are invested money to start Ready made Garment business and due to loss, they closed the shop. The first petitioner never lived with the defacto-complainant as alleged. Further, the learned counsel for the petitioners would submit that the defacto-complainant compelled the first petitioner to marry her and threatened the first petitioner's parents. The petitioners are innocent persons and she made a false

complaint against them. Further, they are willing to co-operate with the investigation. Thus, he prayed for grant of anticipatory bail.

5. The learned Additional Public Prosecutor would submit that after having been invested a sum of Rs.1,00,000/- by the defacto-complainant, the petitioner swindled the entire sum of Rs.1,00,000/- in the Garment Business. Therefore, the learned Additional Public Prosecutor vehemently opposed for grant of anticipatory bail.

6. It is seen from the records that the first petitioner and the defacto-complainant are having affair and living together for the past three years. They jointly invested and started Garment business and they suffered loss.

7. Considering the above facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions. 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 on which the order copy is made ready, before the learned IX Metropolitan Magistrate, Saidapet, Chennai on condition that the petitioners 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

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

[c] the second petitioner shall report before the respondent police as and when required.

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

[e] the petitioners shall not abscond either during investigation or trial.

[f] 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]**.

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

-sd/-
26/11/2018

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 METROPOLITAN MAGISTRATE,
NO.IX, SAIDAPET, CHENNAI.

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI.
[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-19 ALL WOMEN POLICE STATION,
ADAYAR, CHENNAI.

+1 CC to M/S.D.NANDAGOPAL Advocate on payment of necessary charges-Sr.22449

CRL OP.27338/2018

Date :26/11/2018

ths : 03.12.2018

WEB COPY