



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

Friday, the Ninth day of February Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.1572 of 2018

1 ANWAR BATCHA,
2 HATJUDHA HANI,

... PETITIONERS / ACCUSED NO.1 & 2

Vs

THE STATE REP.THROUGH
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUVAIYARU,
THIRUVAIYARU TALUK,
THANJAVUR DISTRICT.
(CR.NO.1/18)

... RESPONDENT / COMPLAINANT

For Petitioners : M/S.T.INDRACHITHU Advocate

For Respondent : MR.A.ROBINSON, Government Advocate (Crl. Side)

For Intervener : MR.J.SULTHAN BASHA, Advocate for
M/S.AJMAL ASSOCIATES

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

ORDER : The Court Made the following order :-

The petitioners/A1 & A2, who apprehend arrest at the hands of the respondent police for the alleged offences under Sections 376, 511, 506(i), 294(b), 109 I.P.C, and r/w Section 4 of Tamilnadu Prohibition of Women Harassment Act, in Crime No.1 of 2018, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant is none other than the wife of second petitioner's brother. On 16.01.2018, while the defacto complainant was present in one marriage function utilizing the opportunity of loneliness, the first petitioner attempted to commit the rape. Subsequently, the second petitioner who is the wife of first petitioner made a criminal intimation against the defacto complainant. Hence, case has been registered against the petitioners for the above said offences.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The learned counsel appearing for the petitioners submitted



that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution, further added that they are no way connected with the alleged offence. Hence, he prays for anticipatory bail.

4. The learned counsel appearing for the intervener submitted that on 16.01.2018, when the defacto complainant went to her room, at that time, the first petitioner had gone to the said room and attempted to commit rape. In this circumstances, the first petitioner threatened the defacto complainant and caused life threat to the defacto complainant. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

5. The learned Government Advocate (Criminal Side) appearing for the State submitted that investigation is still pending.

6. Upon considering the arguments advanced by either side, it is alleged that during the time of occurrence, the first petitioner herein being the relative of the defacto complainant, in house in which a marriage function was happened, the first petitioner misbehaved with the defacto complainant. Apart from that, after registering of the F.I.R. the first petitioner uploaded the photographs and sent it to the defacto complainant's husband, who is residing in abroad. So, the gravity of offence committed by the first petitioner is heinous, for which extensive interrogation of the first petitioner is necessary. Accordingly, in respect of first petitioner is concerned, considering the gravity of offence committed by the first petitioner, this Court is not inclined to grant anticipatory bail. Accordingly, the Criminal Original Petition is dismissed in respect of first petitioner.

7. With regard to the second petitioner is concerned, the learned Government Advocate (Crl. Side) appearing for the State did not raise any objection for granting anticipatory bail. Further more, on go through the entire averments made in the F.I.R., there is no serious allegation against the second petitioner. So, with regard to the second petitioner is concerned, this Court is inclined to grant anticipatory bail to the second petitioner with certain conditions. Accordingly, she is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Thiruvaiyaru, on condition that the second petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) the second petitioner/A2 shall report before the respondent Police daily at 10.00 a.m. for a period of three weeks and thereafter, as and when required for interrogation.



(ii) second petitioner/A2 shall not tamper with evidence or witness either during investigation or trial.

(iii) second petitioner/A2 shall not abscond either during investigation or trial.

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(iv) On breach of any of the aforesaid conditions, the anticipatory bail granted to the second petitioner shall stand automatically cancelled and the learned Magistrate/Trial Court is entitled to take appropriate action against the second petitioner in accordance with law as if the conditions have been imposed and the second 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]**.

sd/-

09/02/2018

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

TO

1 THE JUDICIAL MAGISTRATE, THIRUVAIYARU

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
THANJAVUR DISTRICT AT KUMBAKONAM

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, THIRUVAIYARU,
THIRUVAIYARU TALUK, THANJAVUR DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.T.INDRACHITHU Advocate SR.No.2322

+1cc to M/S.AJMAL ASSOCIATES, Advocate in SR.No.47763

MSA

GJM/PM/PN/SAR-3-16.2.18-3P-7C

ORDER

IN

CRL OP(MD) No.1572 of 2018

Date :09/02/2018