



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

Tuesday, the Twentieth day of November Two Thousand Eighteen
PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.20639 of 2018

POORNA KALA

... PETITIONER/5th ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
SRIVAIKUNDAM POLICE STATION,
TUTICORIN DISTRICT.
CRIME NO.171/2018

... RESPONDENT / COMPLAINANT

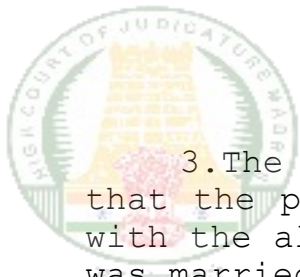
For Petitioner : Mr.S.R.DURAIRAJ, Advocate
For Respondent : Mr.K.SUYAMBULINGA BHARATHI,
Government Advocate(Crl.Side)

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

ORDER : The Court Made the following order :-

The petitioner/Accused No.5, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 449, 294(b), 307 and 109 of I.P.C and Section 4A [2] [i] of TN Prohibition of Harassment of Woman Act, 2002 @ 449, 294 (b), 307, 109 and 302 of I.P.C and Section 4A [2] [i] of TN Prohibition of Harassment of Woman Act, 2002 , in Crime No.171 of 2018, seeks anticipatory bail.

2.The case of the prosecution is that on 08.06.2017, the marriage between one Geetha and the brother of the petitioner had taken place. Thereafter, she had been living with A-1. Due to some misunderstandings, there were constant fights between the deceased Geetha and her husband Sankar. She often used to go to her parents' home. Thereafter, Geetha's father pacified and send her back. On 25.07.2018, again, she went to her parents' home. Tthe first accused had come to her place and picked up a quarrel with the deceased Geetha. It is stated that he poured petrol and set fire to her and in that process, Geetha's mother and the first accused sustained severe burn injuries. Thereafter, the defacto complainant had called up 108 Ambulance and all the four went to the hospital in the same ambulance. The said Geetha had succumbed to the burn injuries and passed away on 28.07.2018. Initially, a case was registered under Section 307 I.P.C. Thereafter, it was altered into under Sections 449, 294(b), 307, 109 & 302 of I.P.C and Section 4A [2] [i] of TN Prohibition of Harassment of Woman Act, 2002.



3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has nothing to do with the alleged crime. He would further submit that the petitioner was married 10 years before and she was residing with her husband at Door No.10/7, Karunkulam, Srivaikundam Taluk, Tuticorin District and she is not living with her brother. She has got two female children. Further, the petitioner is employed as a Police Constable. Hence, anticipatory bail may be granted to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent, on instructions, would submit that investigation is almost over and they are waiting for post mortem, forensic and toxological reports.

5.Admittedly, it is a case of 302 I.P.C. Admittedly, the petitioner is not present in the scene of occurrence. It is also submitted that first accused Sankar is still taking treatment as inpatient in the hospital.

6.Considering all these factors and also considering the fact that there is no specific overt act attributed against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner, with certain 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, Srivaikundam 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 learned Magistrate concerned and on further condition that;

[a] if the petitioner fail to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled;

[b] the petitioner shall report before the respondent Police daily at 10.00 a.m until further order for interrogation;

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[d] the petitioner shall not abscond 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]**.

and



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

sd/-

20/11/2018

WEB COPY

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE, SRIVAİKUNDAM.

2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TUTICORIN DISTRICT.

3. THE INSPECTOR OF POLICE,
SRIVAİKUNDAM POLICE STATION,
TUTICORIN DISTRICT.

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

+1. CC to Mr.S.R.DURAIRAJ Advocate SR.No.21823

ORDER

IN

CRL OP(MD) No.20639 of 2018

Date :20/11/2018

MS/VR-MMS/SAR-2/29.11.2018/3P.6C