



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

Wednesday, the Twenty Fourth day of April Two Thousand Nineteen

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PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.5076 of 2019

1 SELVAM

2 RANI

... PETITIONERS / ACCUSED NO.1 & 2

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
DEVAKAOTTAI,
SIVAGANGAI DISTRICT.
CRIME NO.5/2018

... RESPONDENT / COMPLAINANT

SAKUNTHALA

... PETITIONER/ INTERVENER

For Petitioner : MR.S.MUNIYANDI Advocate

For Respondent : MR.K.SUYAMBULINGA BHARATHI,
Government Advocate (Crl.Side)

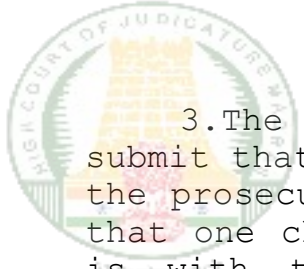
For Intervener : MR.S.MUTHUKUMAR, Advocate

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

ORDER : The Court Made the following order :-

The petitioners who are apprehending arrest at the hands of the respondent police for the alleged offence under Sections 294(b), 323, 498(A), 506(i) of IPC and Section 4 of TNPHW Act, in Cr.No.5 of 2018, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the marriage between the first petitioner and the defacto complainant was solemnized on 15.11.1999 and thereafter they are blessed with two childrens. After some years the defacto complainant developed some illegal intimacy with second petitioner and subsequently married the second petitioner, thereby there was a matrimonial dispute in between them. Thereafter the defacto complainant left the matrimonial home and living there. Hence the complaint.



3. The learned counsel appearing for the petitioners would submit that the petitioners did not commit any offence as alleged by the prosecution and they are innocent persons. He would also submit that one child is with the defacto complainant and the other child is with the defacto complainant. However the first petitioner in order to show his bonafide he is ready to settle the property in favour of his sons and accordingly he has filed an affidavit. The relevant para 4 reads as follows:

" 3. I submit that I have constructed a house in Door No.1/190, situated at Kalakkavayal Village, Devakottai Taluk, Sivagangai District. I am residing in that house along with my 2nd son. I am undertaking that I will execute the settlement deed in favour of my sons namely Arun Selvam and Ajay Selvam and I will not alienate the property to anybody else except to my sons. Moreover I am undertaking that I will not create any encumbrance upon the house property".

4. The learned counsel for the intervenor concede the request made by the learned counsel for the petitioner.

5. The learned Government Advocate (Crl. side) appearing for the respondent police would submit that it is purely a matrimonial dispute and the investigation is pending.

6. Considering the facts and circumstances and considering the fact that the petitioners have come forward before this Court and to settle the property in favour of his sons, this Court is inclined to grant anticipatory bail to the petitioners. 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 of receipt of a copy of this order, before the learned Judicial Magistrate, Devakottai, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each 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:

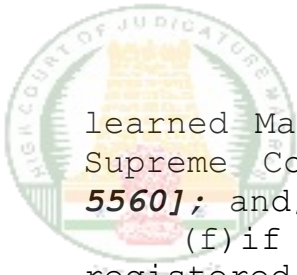
(a) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioners shall report before the respondent police daily at 10.30a.m until further orders

(c) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioners 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 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]**; and;

(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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24/04/2019

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

TO

1 THE JUDICIAL MAGISTRATE,
DEVAKOTTAI.

2 DO THROUGH THE CHEIF JUDICIAL MAGISTRATE,
SIVAGANGAI.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
DEVAKAOTTAI, SIVAGANGAI DISTRICT.

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

+1 CC to M/s.S.MUNIYANDI, Advocate (SR-7165[I] dated 24/04/2019)

ORDER

IN

CRL OP(MD) No.5076 of 2019

Date :24/04/2019

JM/JC/SAR 1/30.04.2019/3P/6C