



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

Friday, the Twenty First day of June Two Thousand Nineteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) No.8088 of 2019

1 MALARVANNAN
2 MALAIYALAM
3 GANESHPANDI
4 PASUMPON

... PETITIONERS / ACCUSED 1 TO 4

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
CHECKANOORANI POLICE STATION,
MADURAI DISTRICT.
CRIME NO.206/2019

... RESPONDENT / COMPLAINANT

SHEEBA

... PETITIONER/ INTERVENER

For Petitioner : MR.N.ANANDHAPADMANABHAN, Advocate
for M/S.APN LAW ASSOCIATES

For Respondent : Mrs.M.ANANTHA DEVI, Government Advocate (Crl.Side)

For Intervener : MR.NIRANJAN S.KUMAR, Advocate

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 offence punishable under Sections 294(b), 363 and 506(i) of IPC, seek anticipatory bail.

2.Heard both sides.

3.The learned counsel appearing for the petitioners has submitted that the divorce notice was issued by the first petitioner to the de-facto complainant on 04.05.2019 itself. The first petitioner has categorically stated that the child is with him and only on 23.05.2019 the de-facto complainant has lodged a complaint stating that the first petitioner took the child from her parents house and the said averment itself is not true. He further



submitted that the first petitioner is entitled to take the child and therefore, he prayed for granting anticipatory bail to the petitioners.

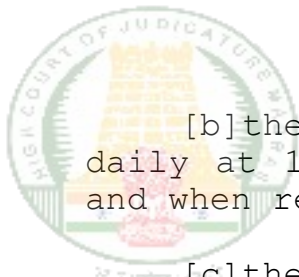
4. The learned counsel appearing for the intervenor has submitted that after taking the child on 06.05.2019, the first petitioner has issued notice on 07.05.2019 pretending as if the said notice was issued on 04.05.2019 itself. He further submitted that the first petitioner is not having any right to take the child when the child is in the custody of the de-facto complainant. He further submitted that the petitioners have filed a petition in CrI.O.P. (MD) No.8715 of 2019 under Section 482 of Cr.P.C., seeking to quash the First Information Report and got interim stay. Under the said circumstances the apprehension of the petitioners that they will be arrested in this case itself is an imaginary one and therefore, he prayed for dismissal of the said petition.

5. The learned Government Advocate (CrI.side) appearing for the respondent police has accepted the arguments advanced by the learned counsel for the intervenor.

6. The first petitioner is the father of the child and the de-facto complainant is the mother of the child and admittedly now the child is in the custody of the first petitioner. The question as to whether the first petitioner is entitled to have custody or the de-facto complainant is entitled to have custody has to be decided by filing proper petition before the competent Court. The said question cannot be decided by this Court while dealing with the anticipatory bail application. Further, the petitioners have filed a petition in CrI.O.P. (MD) No.8715 of 2019 under Section 482 of Cr.P.C., seeking to quash the First Information Report and the same is pending before this Court. Further, the complaint was lodged only on 23.05.2019 for the offence said to have been occurred on 06.05.2019. Taking into consideration of the aforesaid facts, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. 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 No.II, Usilampatti, Madurai and 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] If the petitioners fail 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 three weeks and thereafter, as and when required before the respondent police for interrogation.

[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].

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

sd/-
21/06/2019

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE NO.II,
USILAMPATTI, MADURAI.

2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE,
CHECKANOORANI POLICE STATION,
MADURAI DISTRICT.

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

+1. CC to M/S.APN LAW ASSOCIATES Advocate SR.No. 10249

ORDER
IN
CRL OP(MD) No.8088 of 2019
Date :21/06/2019