



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

Tuesday, the Twenty Second day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP (MD) No.21525 of 2018

1.M.SAGAYA AROCKIARAJ

2 GRACE MARY

... PETITIONER / ACCUSED Nos. 1 & 2

Vs

THE STATE REP.BY

THE INSPECTOR OF POLICE,
PALAKKARAI POLICE STATION,
TRICHY CITY-1

(IN CRIME NO.633 OF 2018)

... RESPONDENT / COMPLAINANT

For Petitioners : MR.N.MOHIDEEN BASHA Advocate

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

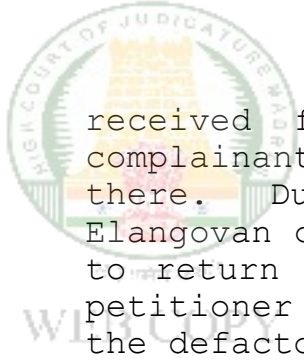
For Intervenor : MR.B.JAMEEL ARASU, Advocate

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

ORDER : The Court Made the following order :-

The petitioners, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b), 323, 406, 418 and 506(ii) of IPC in Crime No.633 of 2018 seek anticipatory bail.

2. The case of the prosecution is that the first petitioner is the husband and the second petitioner is the wife . The defacto complainant is the sister of the first petitioner. The petitioner had given various amounts to his brother for developing his business to the tune of Rs.22,00,000/- and also 50 sovereigns of gold jewels. She had given the same during the year 2012. The defacto complainant married one Christopher Sundaram in the year 1994 and they settled in Neyveli. The property of the first petitioner and the defacto complainant are adjacent to each other. The defacto complainant's husband died on 03.05.2012. On the death of the defacto complainant's husband, she had received terminal benefits. The first petitioner herein received the money from the defacto complainant started constructing second floor in the house with the money



received from the defacto complainant. Thereafter the defacto complainant came to Trichy along with her children and settled there. During the year 2017 the defacto complainant married one Elangovan of Kothagiri and thereafter she asked the first petitioner to return the money and jewels given to him, for which the first petitioner was evasive and he did not repay the amount and jewels to the defacto complainant.

3. The learned counsel for the petitioners would submit that the first petitioner has received the money from the defacto complainant only for his business development, but he started constructing house using the money. He would also submit that the marriage expenses was spent by the first petitioner. He would also submit that the defacto complainant had married one Elangovan who is none other than the employee of the first petitioner, which is not to the liking of the petitioner and hence a false case has been foisted against them. Further at the instance of the said Elangovan the defacto complainant after marriage had given a complaint against the petitioner and also filed a civil suit in O.S.No.433 of 2018 before the District Munsif Court, Tiruchy and cause disturbance to the petitioner and also neighbourhood. He would also submit that there is no whisper with regard to the second petitioner.

4. The learned counsel for the intervenor would submit that the first petitioner with the good intention of helping her brother and given some money and the first petitioner has returned the same to the defacto complainant. He would also submit that the defacto complainant had also given the terminal benefits of her husband to the first petitioner and she has no other source of income to lead her livelihood. He would submit that during enquiry and mediation the petitioners undertook to repay the amount and jewels within a period of three months but neither returned the money and jewels to the petitioner, hence opposed for grant of anticipatory bail to the petitioners.

5. The learned Government Advocate(Crl.Side) would submit that investigation is pending in this case.

6. Taking into consideration the facts of the case and the submissions by learned counsels and also the fact that the dispute is between the brother and the sister with regard to payment of money and jewels, this Court inclined to grant anticipatory bail to the petitioners.

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, before the learned Judicial Magistrate No.V, Trichy 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 said Magistrate, on further condition that:

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

[a] if the petitioners fail to surrender before the said



Magistrate within a period of fifteen days, this Order shall stand automatically cancelled.

[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 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
22/01/2019

/ TRUE COPY /

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

TO

1.THE JUDICIAL MAGISTRATE NO.V, TRICHY.

2.DO THRO'THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.

3.THE INSPECTOR OF POLICE,
PALAKKARAI POLICE STATION, TRICHY.

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

+1. CC to MR.N.MOHIDEEN BASHA Advocate SR.No.1104
+1. CC to MR.B.JAMEEL ARASU Advocate SR.No.1269

ORDER
IN
CRL OP(MD) No.21525 of 2018
Date :22/01/2019