



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

Friday, the Eleventh day of January Two Thousand Nineteen
PRESENT

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The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.14099 of 2018

1 ALI RAHMAN
2 YASMIN
3 SHANKEER HUSAIN
4 HAMEETHA BEEVI
5 BEER DHAVAS NISHA

... PETITIONERS / A1-A5

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NAGERCOIL, KANYAKUMARI DISTRICT.
IN CRIME NO. 32 OF 2018

... RESPONDENT / COMPLAINANT

For Petitioners : MR.R.KARUNANIDHI, Advocate

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

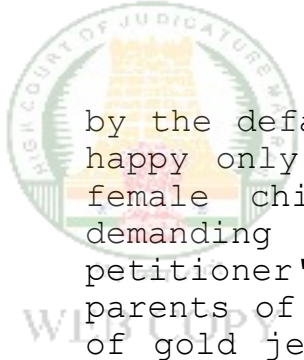
For Intervenor : MR.R.MAHESWARAN, Advocate

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 alleged offences punishable under Sections 498(A), 294(b) and 420 of IPC., r/w Sections 4 and 6 of Dowry Prohibition Act, in Crime No.32 of 2018, on the file of the respondent Police, seek anticipatory bail.

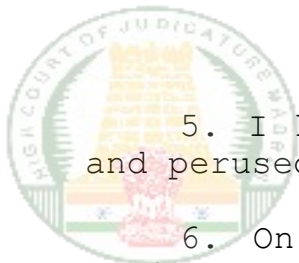
2. The case of the prosecution is that the defacto complainant is the wife of the 1st petitioner and other petitioners are in-laws. The marriage between the 1st petitioner and the defacto complainant was solemnized on 01.06.2014. Though the defacto complainant was not interested in the marriage, since she was minor at the time of marriage, on the compulsion of her parents, she agreed for the marriage. During the marriage, a sum of Rs.3,00,000/- and gold jewels around 15 sovereigns were given as dowry to the 1st petitioner. Apart from gift to her husband, the sisters and brother-in-law of her husband were also gifted gold ornaments around 6 sovereigns during the marriage and an additional dowry of Rs.3,00,000/- was given. The total expenses of the marriage was done



by the defacto complainant's family. After the marriage, they were happy only for few days. The defacto complainant gave birth to a female child on 28.02.2015. Thereafter, the petitioner started demanding more money in the name of investment to the first petitioner's business and on the compulsion, Rs.6,00,000/- from the parents of defacto complainant was brought by selling 15 sovereigns of gold jewels and handed over to the first petitioner. Further, the first petitioner had pledged the remaining gold in HDFC Bank Main Branch in Vadaseri, for a sum of Rs.4,50,000/-. The first petitioner is an alcoholic and become a spent money lavishly. On 19.03.2018, the first petitioner along with other petitioners came to the defacto complainant's house and demanded Rs.4,50,000/-, which was not accepted by the defacto complainant parents and there was scuffle and use of abusive language. The defacto complainant was subjected to lot of pain and mental agony and unable to withstand any more, the defacto complainant has preferred a complaint to the respondent police on 08.05.2018. Hence, the case.

3. The learned counsel appearing for the petitioners would submit that first petitioner was doing a car business at Chennai for the last four years and one Raja Hussain of Porur , Chennai was working with him on commission basis and gain confidence with the first petitioner. The said Raja Hussain was helping the first petitioner in his business and therefore, he came to the first petitioner's house in Chennai. Taking advantage of this things, the said Rajahussain and the first petitioner's wife had developed illicit intimacy with each other. Which caused misunderstanding between the first petitioner and his wife and their relationship strained. On several occasions, the defacto complainant and the said Raja had attempted to murder the first petitioner. On 02.04.2018, the defacto complainant had conspired the said Raja Hussain and attempted to murder the first petitioner by cutting his throat and used abusive vulgar language. Immediately, the neighbours rescued him and admitted in hospital and thereafter, he had given a complaint to Mangadu Police, Chennai, who registered the complaint against Raja Hussain. The first petitioner has submitted evidence for the conspiracy of the defacto complainant with the said Raja Hussain for murdering the petitioner. Further, the first petitioner had given a report to the Superintendent of Police, Kanyakumari, at Nagercoil, against the defacto complainant, to take vengeance and escaped from the case on which a false complaint has been given. It is further submitted that the petitioners 2, 4 and 5 are the sisters-in-law of the first petitioner and 3rd petitioner is the brother-in-law and all these petitioners are living separately with their respective houses.

4. The learned Government Advocate (crl.side) appearing for the State would submit that it is a case of matrimonial dispute and based on the complaint of the defacto complainant, a case has been registered against the petitioners and the investigation is in progress.



5. I have heard the learned counsels appearing on either side and perused the materials available on record.

6. On earlier occasion, this Court had directed the Mangadu Police to file a report on the assault carried out on the first petitioner and the same was produced. On perusal of the same, it is seen that the first petitioner had a cut throat injuries, Emergency Tracheotomy and wound exploration and vascular surgery was carried on. From perusal of the medical records it is seen that the 1st petitioner had a miraculous escape from the death by timely medical treatment and the injuries sustained are very serious in nature and it cannot be self inflicted injury as projected by the defcto complainant. Further, FIR in Crime No.785 of 2018 of Mangadu Police is also perused.

7. Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners, subject to certain conditions;

8. 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.III, Nagercoil, on condition that the petitioners shall execute each 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 petitioners failed to surrender before the said Magistrate within a period of fifteen days from the date of receipt of a copy of this order, this Order shall stand automatically cancelled.

[b] the petitioners shall report before the respondent police, 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/-

11/01/2019

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TO

1 THE JUDICIAL MAGISTRATE NO.III
NAGERCOIL.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI AT NAGERCOIL.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NAGERCOIL, KANYAKUMARI DISTRICT.

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

+1. CC to M/S.R.MAHESWARAN Advocate SR.No. 967

+1. C.C. to M/S.R.KARUNANIDHI, Advocate SR.No. 41815

ORDER

IN

CRL OP(MD) No.14099 of 2018

Date :11/01/2019

JM/PN/SAR 1/22.01.2019/4P/7C