



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

Thursday, the Seventh day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP (MD) No.21013 of 2018

1.R. RAJESH,
2 N. RAJAIYAN,
3 SAROJONI,
4 R. JEYANTHI,
5 T.RAJAN,

... PETITIONERS / ACCUSED NO.1 TO 5

Vs

THE STATE OF TAMIL NADU,
REP.BY THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NAGERCOIL, KANYAKUMARI DISTRICT.
(CRIME NO.48 OF 2018)

... RESPONDENT / COMPLAINANT

For Petitioners : MR.C.K.M.APPAJI Advocate

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

For Intervener : Mr.P.KARTHICK, 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 under Sections 498A, 406, 294(b) of IPC r/w Section 4 and 6 of Dowry Prohibition Act in Cr.No.48 of 2018 on the file of the respondent police, seek anticipatory bail.

2.The first petitioner is the husband of the defacto complainant and the other petitioners are the in-laws of the defacto complainant. It is the case of the prosecution that the marriage between the first petitioner and the defacto complainant was solemnized on 17.09.2015. At the time of marriage, 125 sovereigns of gold and Rs.5,00,000/- were given to the first petitioner and his family members as dowry. Due to wedlock, the first petitioner and the defacto complainant have blessed with one male and one female



child. After the defacto complainant went to her parental home, the first petitioner refused to take back the defacto complainant and thereby, the defacto complainant filed a 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 the defacto complainant wanted to live with the first petitioner separately and did not want to live with the in-laws as joint family. Further, he on instructions submitted that without prejudice to his right, the petitioners are ready to deposit the 41 sovereigns of gold and a sum of Rs.5,00,000/- (Rupees Five Lakhs only) to the credit of Cr.No.48 of 2018 and thereafter, the learned Magistrate may disburse the said jewels and Rs.5 lakhs to the defacto complainant.

4. The learned Government Advocate (Crl.Side) appearing for the State would submit that the investigation is still pending and if the petitioners shall come forward before this Court to deposit the 41 sovereigns of gold and Rs.5,00,000/-, this Court may consider the bail application of the petitioners.

5. The learned counsel for the intervenor accepted the proposal of the petitioners and he has no objection for granting bail to the petitioners.

6. Considering the facts and circumstances of the case, 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, Additional Mahila Court, Nagercoil, 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 learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioners are directed to deposit the 41 sovereigns of gold and a sum of Rs.5,00,000/- (Rupees Five Lakhs only) to the credit of Cr.No.48 of 2018. The learned Judicial Magistrate, Additional Mahila Court, Nagercoil is directed to disburse the same to the defacto complainant after having verified the identity of the defacto complainant and the proof of challan for drawing the said amount and to deposit the 41 sovereigns of gold shall be filed at the time of furnishing the sureties before the learned Judicial Magistrate, Additional Mahila Court, Nagercoil, failing which, the anticipatory bail granted to the petitioners shall stand vacated automatically.



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

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

(e) the petitioners shall not abscond either during investigation or trial;

(f) 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;

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

sd/-
07/02/2019

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE,
ADDITIONAL MAHILA COURT, NAGERCOIL.
 2. DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
NAGERCOIL AT KANYAKUMARI DISTRICT
 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 MR.C.K.M.APPAJI Advocate SR.No.2563
+1. CC to MR.P.KARTHICK, Advocate SR.No.2713

ORDER
IN
CRL OP(MD) No.21013 of 2018
Date : 07/02/2019