



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/07/2019

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.10231 & 10233 of 2019

CRL OP(MD). No.10231 of 2019:

1. Mohamed Ismail
2. Thameemun Absari Begum ... Petitioners/Accused 2 & 3

Vs

State Rep.by
The Inspector of Police,
All Women Police Station,
Thoothukudi.
In Crime No.17 of 2016. ... Respondent/Complainant

For Petitioner : M/s.M.Mohamed Sherbudeen,
Advocate.

For Respondent : Mrs.M.Anantha Devi,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Cr.no.17 of 2016 on the file of the
Respondent police.

CRL OP(MD). No.10233 of 2019:

1. M.Syed Shahul Hameed,
2. A.Kamarul Haniya ... Petitioners/Accused 1 & 4

Vs

State Rep.by
The Inspector of Police,,
All Women Police Station,
Thoothukudi.
In Crime No.17 of 2016. ... Respondent/Complainant

For Petitioners: M/s.M.Mohamed Sherbudeen, Advocate.

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

For Respondent : Mrs.M.Anantha Devi,
Government Advocate (Crl.Side)



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

PRAYER :-

For Anticipatory Bail in Cr.No.17 of 2016 on the file of the Respondent police.

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COMMON ORDER

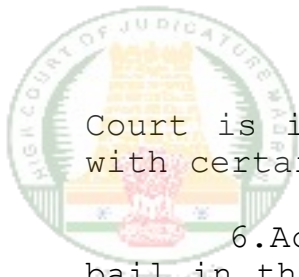
The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294 (b), 494, 506 (ii) of IPC r/w Section 4 of TN Prohibition of Harassment of Women Act, 2002, in Crime No.17 of 2016, seek anticipatory bail.

2. Heard both sides.

3.The learned counsel appearing for the petitioners has submitted that the petitioners are innocent persons and they have been falsely implicated in the above case. He further submitted that due to misunderstanding arose between the first accused and the defacto complainant, the first accused divorced the defacto complainant, by pronouncing triple talaq in reasonable intervals and final talaq takes place on 23.03.2015 and the procedure followed in the talaq was properly authenticated by the Muslim Society. Thereafter, on 22.09.2015, the defacto complainant lodged a false complaint stating that the petitioners abused her and attacked her and therefore a case has been registered in Crime No.734 of 2015 and a charge sheet was also filed before the Judicial Magistrate Court, Aruppukttai and the same was taken on file in S.T.C.No.1237 of 2015 and the trial was commenced. He further submitted that A1 married A4 on 20.01.2016, thereafter, the defacto complainant lodged the present case in Crime No.17 of 2016 and therefore, he prayed for grant of anticipatory bail to the petitioners.

4.Per contra, the learned Government Advocate (criminal side) appearing for the respondent has submitted that A1 in this case has already filed anticipatory bail application and the same was withdrawn by his counsel and this is the second anticipatory bail application for A1. She further submitted that initially A1 married the defacto complainant and they had two children and thereafter, he married A4 and hence, she strongly opposed for granting anticipatory bail to the petitioners.

5.Taking into consideration of the submissions made by the learned counsel for the petitioners that already a case was registered against the petitioners and taking into consideration of the fact that the parties are Muslims and also the submission made by the learned counsel for the petitioners that the first accused has already pronounced talaq and that a compromise was entered between the parties and the same was recorded by the Court of Omen and divorce certificate has also been issued, and also the fact that even though the FIR has been registered in the year 2016, so far the police has not taken any steps in securing the accused, this



Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. 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.III, Thoothukudi, 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(i) If the petitioners fail to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

(ii) the first accused/M.Syed Shahul Hameed shall report before the respondent police daily at 10.30 a.m for a period of one week and thereafter, as and when required before the respondent police for interrogation.

(iii) the other petitioners/A2 to A4 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.

(iii) the petitioners shall not tamper with evidence or witness either during investigation or trial.

(iv) the petitioners shall not abscond either during investigation or trial.

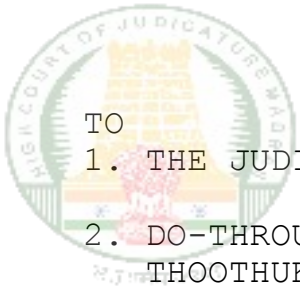
(v) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

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

sd/-
22/07/2019

/ TRUE COPY /

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



TO

1. THE JUDICIAL MAGISTRATE NO.III, THOOTHUKUDI.

2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.

3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, THOOTHUKUDI.

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

+2. CC to M/S. M. MOHAMED SHERBUDEEN Advocate SR.No.12146 & 12147

ORDER IN

CRL OP(MD). No.10231 & 10233 of 2019

Date :22/07/2019

MS/PN/SAR-1/31.07.2019/4P.7C