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CRL OP(MD). No.10714 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 21/08/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.10714 of 2019

Siranjeevi Kumar

... Petitioner/Accused No.1

Vs

State rep by
The Inspector of Police,
All Women Police Station,
Thallakulam Madurai City,
Madurai District.
Crime No. 22/2019.

... Respondent/Complainant

For Petitioner : M/s.R.Venkatraman, Advocate.
For Respondent : Mrs.M.Anantha Devi,
Government Advocate (Crl.Side)
For intervenor : Mr.C.M.Arumugam, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No. 22 of 2019 on the file of the Respondent Police.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 498(A), 406 and 506(i) of IPC in Crime No.22 of 2019, seeks anticipatory bail.

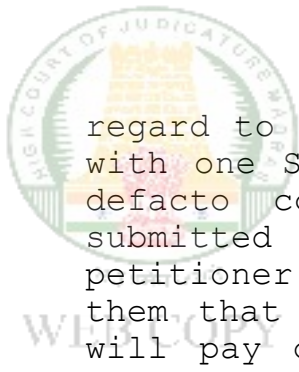
2.The learned counsel for the petitioner has submitted that this is the second anticipatory bail application filed by the accused No.1. He further submitted that previous anticipatory bail petition in Crl.O.P.(MD).No.9507/2019 has been filed by the petitioner herein and other accused persons and at that time, the petitioner herein could not produce the relevant materials before this court and hence, this Court has dismissed the said petition insofar as the petitioner herein is concerned. However, this Court

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



has granted anticipatory bail to other accused persons. He further submitted that the petitioner herein has not demanded any dowry from the defacto complainant. He further submitted that since there was money dispute between the families of the petitioner and the defacto complainant, at the instigation of the father of the defacto complainant, the defacto complainant has lodged a false complaint against the petitioner and his family members, as if they have demanded dowry and caused cruelty. He further submitted that the defacto complainant's father gave a sum of Rs.23 lakhs as loan to the petitioner and his family members, since they could not repay the said loan, the defacto complainant's mother has got the sale deed executed in her favour in respect of a shop and the said fact has been admitted by the defacto complainant in her complaint itself and he further submitted that even before marriage, the petitioner and his family members entered into a sale agreement for purchasing a cardamom estate from one Ravichandran and Manoharan and also paid some amount as advance and the petitioner and his family members could not pay the balance amount and get the sale deed executed. Hence, after marriage, they made a request with the defacto complainant's father to make some arrangement for getting the aforesaid amount and accordingly, the defacto complainant's father directed the petitioner and his family members to execute a sale deed in favour of his cousin brother viz., Subramaniam and hence, the petitioner and his family members requested the original owner of the estate to execute a sale deed directly in the name of the said Subramaniam. He further submitted that subsequently, at the instance of the defacto complainant's father, the said Subramaniam had sold the said estate to a third party for more than Rs.1 crore. But they is saying that they have sold the estate for Rs.95,00,000/- and after adjusting with the debts, they is willing to give only a sum of Rs.14 lakhs and also the shop and for that, the petitioner and his family members have not agreed. Hence, at the instigation of the defacto complainant's father, the defacto complainant has lodged a false complaint. He further submitted that the petitioner has not committed any offence and therefore, he prayed to grant anticipatory bail to the petitioner. He also produced a copy of the sale deed executed in favour of the defacto complainant's mother in respect of a shop and also the sale agreement which was entered between the owners of the cardamom estate and the petitioner's mother.

3.Per contra, the learned counsel for the intervenor/defacto complainant has submitted that since the petitioner and his family members borrowed debt from various persons and they were not able to discharge the said debts, they made a request with the defacto complainant's father to get the sale deed executed in respect of a shop and accordingly, a sale deed has been obtained in the name of the defacto complainant's mother in respect of a shop. But the possession still continues with the petitioner only. He further submitted that insofar as the transaction with



regard to a cardamom estate, the petitioners had direct transaction with one Subramaniam and with regard to the said transaction, the defacto complainant's father has no role at all. He further submitted that the contention of the learned counsel for the petitioner that the father of the defacto complainant has informed them that after adjusting the amount with regard to interest, he will pay only a sum of Rs.14 lakhs and also return the shop is totally false. He further submitted that the transaction with regard to the shop and cardamom estate is in noway connected with the present complaint. He further submitted that the present complaint has been lodged with regard to the demand of dowry made by the petitioner and his family members and cruelty caused by them. He further submitted that 23 sovereigns of jewels is with the petitioner and he received a sum of Rs.45 lakhs as dowry and he has refused to return the same and therefore, he strongly opposed this petition.

4.The learned Government Advocate (Crl.Side) has adopted the arguments advanced by the learned counsel for the intervenor. She also opposed this petition.

5.Though the learned counsel for the intervenor has submitted that after executing the sale deed in respect of shop in favour of the defacto complainant's mother, the petitioner has not handed over the possession, the said fact has not been disclosed in the complaint. So, it has to be presumed that in pursuance of the sale deed, the possession of the shop has been handed over to the defacto complainant' mother.

6.It is also to be pointed out that the submission of the learned counsel for the intervenor that the transaction with regard to cardamom estate took place between the petitioner's family and one Subramaniam and in which, the father of the defacto complainant is not at all involved also cannot be accepted, because in the complaint which was lodged before the respondent Police on 16.03.2019, the defacto complainant has categorically admitted that the petitioner and his family members have approached her father stating that they already gave an advance for purchasing cardamom estate, but they could not purchase the same and hence, they made a request with him to make some arrangement and considering their request, her father made a request with his cousin brother to purchase the said property. She also stated that at the request of the petitioner and his family members, her father made a request with the said Subramaniam to permit the petitioner and his family members to supervise the said estate. So, it is clear that only at the instance of the defacto complainant's father, the petitioner and his family members have directed the original owner to execute the sale deed in favour of one Subramaniam. But the said fact has not been disclosed in the present complaint. The aforesaid facts would show that there are disputes with regard to money transaction



between the two families.

7. Taking into consideration of the aforesaid facts, this Court is inclined to grant anticipatory bail to the petitioner by imposing conditions:-

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8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Additional Mahila Judicial Magistrate, Madurai on condition that the petitioner shall execute 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 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:

[a] if the petitioner fails to surrender before the concerned Magistrate within a period of 15 days, this order shall stand automatically cancelled.

[b] Considering the submission made by the learned counsel for the petitioner that the petitioner is working as Assistant Professor at Ramanathapuram, he shall report before the respondent Police, daily at 7.30 p.m for a period of three weeks and thereafter, as and when required for the interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner 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/-
21/08/2019

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



TO

1. THE ADDITIONAL MAHILA JUDICIAL MAGISTRATE,
MADURAI.

2. THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THALLAKULAM MADURAI CITY,
MADURAI DISTRICT.

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

+1. CC to Mr.R.VENKATRAMAN Advocate SR.No.13848

+1. CC to Mr.C.M.ARUMUGAM Advocate SR.No.14049

ORDER

IN

CRL OP(MD) No.10714 of 2019

Date :21/08/2019

TK/JC/SAR.1/04.09.2019/5P/7C