



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

Tuesday, the Twelfth day of March Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD) No.18036 of 2018

1.J.JOSEPH PRAVEEN FERNANDEZ
2 GERALD FERNANDEZ
3 LATHA FERNANDEZ

... PETITIONERS / ACCUSED
RANK NOT KNOWN

Vs

STATE THROUGH
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THOOTHUKUDI.
(CRIME NO.NOT KNOWN OF 2018)

... RESPONDENT / COMPLAINANT

For Petitioners : MR.G.PRABHU RAJADURAI Advocate

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

For Intervenor : Mr.Ka.RAMAKRISHNAN, 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), 506(), 494, 511 of IPC and Section 4 of TNPHW Act in Crime No. 16 of 2018 on the file of the respondent police, seek anticipatory bail.

2. The first petitioner is the husband of the defacto complainant. The second and third petitioners are the father-in-law and mother-in-law of the defacto complainant. The case of the prosecution is that the marriage between the first petitioner and the defacto complainant was solemnized on 26.10.2015 at Lady of Snows Church, Thoothukudi as per christian customs and at the time of marriage 10 sovereigns of gold and Rs.5,00,000/- was given as dowry and Rs.10,00,000/- was spent for marriage by the defacto complainant's parents. At the time of marriage the first petitioner



was working in Kathar and after marriage the defacto complainant went to Kathar and there she become pregnant. Thereafter she left Kathar for the purpose of delivery and thereafter she was admitted in AVM hospital, Thoothukudi and she gave birth to one girl child. Thereafter the first petitioner started avoiding the defacto complainant, abused her and started demanding additional dowry, for which the defacto complainant filed a complaint before the respondent police. Infact the first petitioner and his family members are trying to perform second marriage to the first petitioner.

3. The learned counsel for the petitioners would submit that the petitioners have not committed any offence as alleged by the prosecution and they have not demanded any dowry as alleged by the prosecution and he would also submit that till date no marriage was performed and hence he prayed for anticipatory bail.

4. The learned counsel for the intervenor vehemently opposed for grant of anticipatory bail to the petitioners stating that the first petitioner assaulted the defacto complainant at Kathar and even after delivery the petitioners continuously harassed the defacto complainant and decided to perform second marriage to the first petitioner.

5. The learned Government Advocate(Crl.Side) appearing for the state would submit that investigation is pending.

6. Taking into consideration the fact and circumstances of the case and the fact that the no allegations are levelled against the petitioners 2 & 3 this Court is of the considered view that the first petitioner refused to take care of his wife and the child, this is not a fit case to grant anticipatory bail to the first petitioner and **accordingly, this petition is dismissed in respect of the first petitioner.**

7. As regards the petitioners 2 & 3 they are only in-laws and they have been unnecessarily implicated in this case, this Court is of the view that, some indulgence can be shown to them and therefore, this Court is inclined to grant anticipatory bail to petitioners 2 & 3.

8. Accordingly, the petitioners 2 & 3 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.I, Thoothukudi on condition that the petitioners 2 & 3 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 2 &3 and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the second petitioner shall appear before the respondent police as and when required for interrogation and the third petitioner shall report before the respondent police daily at 10.30 a.m until further orders;

[c] the petitioners 2 &3 shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 2 &3 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 2 &3 in accordance with law as if the conditions have been imposed and the petitioners 2 &3 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/-
12/03/2019

/ TRUE COPY /

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

TO

1.THE JUDICIAL MAGISTRATE NO.I, THOOTHUKUDI.

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

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

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

+1. CC to MR.G.PRABHU RAJADURAI Advocate SR.No.4733

ORDER
IN
CRL OP(MD) No.18036 of 2018
Date :12/03/2019