

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 30/08/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.11554 of 2019

1.N.Pandi
2.M.Nagamalaiyan
3.N.Rajesh Kannan
4.M.Rajendran
5.Pounraj

.... Petitioners/A1 to A5

Vs

The State rep by
The Sub Inspector of Police,
All Women Police Station,
Thirumangalam, Madurai District.
Crime No.38 of 2018

.... Respondent/Complainant

For Petitioners : M/s.C.Gangai Amaran,
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 Crime No. 38 of 2018 on the file of
the Respondent Police

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest at the hands of the
respondent police for the offences punishable under Sections 498(A),
406, 294(b) and 506(i) of IPC in crime No.38 of 2018, seek
anticipatory bail.

2. Heard both sides.

3.The learned counsel appearing for the petitioners has
submitted that on 15.06.2018, the defacto complainant has lodged a

complaint before the Inspector of Police, Thirumangalam Town Police Station stating that the petitioners herein have assaulted her but in the said complaint, she has not whispered anything that the petitioners have demanded any dowry. He further submitted that after five months, the defacto complainant has lodged another complaint before the respondent police on 22.11.2018 stating that the petitioners herein have demanded dowry at the time of marriage itself. He further submitted that if really the petitioners have demanded dowry at the time of marriage itself, the defacto complainant would have mentioned those facts in the previous complaint itself, but she has not mentioned those facts in the previous complaint, and that after dismissal of the divorce petition filed by the first petitioner, the defacto complainant has lodged the second complaint and therefore, he prayed to grant anticipatory bail to the petitioners.

4.Per contra, the learned counsel appearing for the intervener/defacto complainant has submitted that in the previous complaint was lodged with regard to the occurrence took place in the college wherein the defacot complainant is working as Assistant Professor and since the petitioners herein went to the said college and attacked the defacto complainant, she lodged a complaint narrating the said facts alone and inadvertently she omitted to mention at the time of marriage itself, the petitioners have demanded dowry and merely because the defacto complainant has not mentioned in the previous complaint with regard to the dowry demand made by the petitioners, does not mean that there is no said occurrence at all taken place and therefore, he strongly opposed to grant anticipatory bail to the petitioners.

5.The learned Government Advocate (Crl. Side) appearing for the respondent police has adopted arguments advanced by the learned Counsel appearing for the intervener/defacto complainant and she also opposed this petition.

6.It is seen from the records that on 05.06.2019 the defacto complainant has lodged a complaint stating that the petitioners herein came to her college and assaulted her but she has not stated that during the marriage itself, the petitioners herein have demanded any dowry.

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

8.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, Thirumangalam, Madurai District, on condition that the petitioners shall execute a bond for 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 petitioner shall report before the respondent police daily at 7.00 p.m for a period of three weeks and thereafter, as and when required before the respondent police for interrogation and the petitioners 2 to 5 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/-
30/08/2019

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE, THIRUMANGALAM, MADURAI DISTRICT.
2. THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.
3. THE SUB INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, THIRUMANGALAM, MADURAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

- +1. CC to Mr.C.GANGAI AMARAN Advocate SR.No.14551
+1. CC to Mr.K.C. PETER KANESH KUMAR Advocate SR.No.84714

ORDER
IN
CRL OP(MD) No.11554 of 2019
Date : 30/08/2019

TK/JC/SAR.1/05.09.2019/3P/7C

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