

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twelfth day of March Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.4283 and 3085 of 2020

PERUMAL

[PETITIONER / ACCUSED
IN CRL.OP.NO.4283/2020]

KARUNAMURTHY

[PETITIONER / ACCUSED
IN CRL.OP.NO.3085/2020]

Vs

1 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
MADIPAKKAM,
CHENNAI.
CR.NO.25 OF 2019

[RESPONDENT
IN BOTH THE PETITIONS]

VIJI

[PETITIONER/INTERVENER

**ALLOWED AS PER THE ORDER OF THIS COURT DATED 12/03/2020 MADE IN
CRL.MP.NO.2299/2020 IN CRL.OP.NO.3085/2020.**

For Petitioner : M/S.D.ARUN Advocate
IN BOTH THE PETITIONS]

For Respondent : MR.K.PRABAKAR ADDL. PUBLIC PROSECUTOR
IN BOTH THE PETITIONS]

For Intervener : MR.N.SHAJATHI Advocate
[in CRL.OP.NO.3085/2020]

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

ORDER : The Court Made the following order :-

- 1.The Petitioners herein, apprehending arrest at the hands of the Respondent Police, for having allegedly committed the offences punishable under Sections 417, 420, 352 and 506(i) of IPC in Cr.No.25 of 2019, have filed this Criminal Original Petition, under Section 438 of Cr.PC, seeking anticipatory bail.
- 2.The facts of the case of the Prosecution, as per the defacto complainant, Viji are that the Petitioners are A2 and A1 and brothers. The defacto complainant had married one Ashokraj during the year 2005 and out of their wedlock, two children were born to her. While so, during 2011, the said Ashokraj deserted her and left her and thereafter, she got relationship with the

Petitioner/A1 and they got married on 24.8.2016 at Vadapalani and they have been living together as husband and wife. During the wedlock, the Petitioner/A1 had taken an amount of Rs.6,50,000/- from the defacto complainant for starting a business and thereafter, the defacto complainant had become pregnant twice and on the advice of the Petitioner/A1, she had aborted the pregnancy. From 4.5.209, the Petitioner/A1 absconded and in the Habeas Corpus Petition filed by the complainant, the Petitioner/A1 was brought back home. While so, the Petitioner/A1 decamped with the jewels and scooter of the defacto complainant and absconded. The Petitioner/A2, brother of the Petitioner/A1 had threatened her over phone. Hence, the Petitioners have been implicated as the accused in the case on hand.

3. This court heard the learned counsel for the Petitioner and the learned Additional Public Prosecutor for the Respondent and also perused the materials placed before this Court.
4. According to the Petitioners, the Petitioner/A1 is innocent and he has been falsely implicated in the case on hand. The defacto complainant is already a married woman and without the earlier marriage being dissolved, she is living with the Petitioner/A1. The Petitioner/A2, who is the brother of the Petitioner/A1 is also in no way connected with the alleged offences and he has been falsely implicated in the case. The Petitioners would abide by any conditions to be imposed by this Court for enlarging the Petitioners on anticipatory bail.
5. The learned counsel for the Intervenor/ defacto complainant would submit that the Petitioner/A1 and the defacto complainant were living together and he was aware of the earlier marriage and during the wedlock, the Petitioner/A1 had taken an amount of Rs.6,50,000/- from the defacto complainant and also threatened the defacto complainant.
6. At this juncture, the learned counsel for the Petitioners would submit that to show his bona fide, the Petitioner/A1 is prepared to deposit a sum of Rs.2 lakhs before the concerned Court and he has no objection in the defacto complainant withdrawing the said amount.
7. On the other hand, the learned Additional Public Prosecutor, while vehemently opposing to grant anticipatory bail, would submit that the Petitioner/A1 had married the defacto complainant and during the marriage, the Petitioner/A1 had taken an amount of Rs.6,50,000/- from her to start a business and he had not returned the amount and he had also taken away the jewels, scooter belonging to the defacto complainant and the Petitioner/A2 had also threatened her. Hence, anticipatory bail cannot be granted to the Petitioners.
8. Considering the facts and circumstances of the case and the submissions of the learned counsel on either side, this Court is inclined to grant anticipatory bail in favour of the Petitioners, however, on stringent conditions. Accordingly, the Petitioners are hereby ordered to be released on anticipatory bail, in the event of their arrest or on their appearance before the Judicial Magistrate I, Alandur, within 15 days from the date of receipt of a copy of this order and further on each of the Petitioners complying with the following conditions, without fail:-

- i. If the Petitioners fail to surrender before the Judicial Magistrate I, Alandur, within a period of 15 days, from the date of receipt of a copy of this order, this order shall stand automatically cancelled, without any further reference to this Court.
- ii. Each of 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 Judicial Magistrate I, Alandur. The sureties shall affix their Photographs and Left Thumb Impressions in the surety bonds and the said Magistrate may obtain copies of their Aadhar Cards or Bank Pass Books to ensure their identities.
- iii. The Petitioner/A1 shall deposit a sum of Rs.2,00,000/- (Rupees Two lakhs only) to the credit of Cr.No.25 of 2019. On such deposit being made, the concerned Court shall issue notice to the defacto complainant and the Petitioner/A1 and after due verification, disburse the said amount to the defacto complainant.
- iv. The Petitioner/A1 shall report before the Respondent Police, daily at 10.30 a.m. until further orders.
- v. The Petitioner/A2 shall report before the Respondent Police, daily at 10.30 a.m. for a period two weeks and thereafter, as and when required.
- vi. The Petitioners shall not abscond either during the investigation or the trial. The Petitioners shall not tamper with evidence or witness, either during the investigation or the trial.
- vii. On breach of any of the aforesaid conditions, the concerned 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 are released on bail, by the concerned Trial Court itself, as laid down in the decision of the Honourable Supreme Court reported in **2005 AIR SCW 5560 (P.K.Shaji Vs. State of Kerala)**.
- viii. If the Petitioners, thereafter, abscond, a fresh First Information Report shall be registered, under Section 229A of IPC.

-sd/-

12/03/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)

High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.I, ALANDUR

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
MADIPAKKAM,
CHENNAI.

+2 CC to M/S.D.ARUN Advocate on payment of necessary charges
SR.NO. 4931,4932

CC to M/S.N.SHAJATHI Advocate on payment of necessary charges
SR.NO.

CRL OP.4283 AND 3085/2020

Date :12/03/2020

RD 16/03/2020



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