

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2020

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.8119 of 2020

1.E.Indirani

2.E.Vijayalakshmi

... Petitioners

Vs.

State represented by
Inspector of Police,
Cuddalore O.T P.S.,
Cuddalore District,
Crime No.64 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to enlarge the petitioners on bail in the event of their arrest in Crime No.64 of 2020 on the file of the respondent police.

For Petitioners : Mr.V.Balamurugan

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

O R D E R

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under sections 498(A) and 304(B) I.P.C., in Crime No.64 of 2020, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that on 26.10.2015, the first deceased got married with the first accused. During their marriage, the deceased family had given 35 sovereigns of gold and other household articles as sridhana. Within a period of one month of their marriage, the accused persons have demanded dowry and also harassed the first deceased. In furtherance to the harassment, they also aborted the child of the first deceased and driven her out from the matrimonial house. In continuation of the same harassment, on 12.02.2020, the first deceased along with her father have consumed poison and committed suicide. Hence, the present case is registered against the accused persons.

3.The learned counsel for the petitioners would submit that there are totally six accused persons. The petitioners herein are arrayed as accused Nos.2 and 5 respectively. The son of the first petitioner herein. The

first accused got married with the first deceased on 26.10.2015. Thereafter, due to some misunderstanding, the first deceased went to her parents house in the year 2016 itself. Therefore, there is absolutely no dowry harassment by the accused persons. Therefore, the first accused filed divorce petition in M.O.P.No.206 of 2016 for nullity of marriage between the first accused and the first deceased. The same is pending for trial on the file of the Family Court, Pondicherry. In fact, on receipt of the summon from the Family Court, the first deceased filed a Domestic Violence complaint in D.V.C.No.25 of 2016 on the file of the Additional Mahila Court, Cuddalore. To quash the same, the first accused has filed a Criminal Original Petition in CrI.O.P.No.27687 of 2018 before this Court and this Court by an order dated 28.11.2018, stayed all further proceedings. Thereafter, the first deceased moved an application before this Court to transfer the M.O.P from the file of the Family Court, Pondicherry to the Family Court, Cuddalore. By order dated 18.10.2016, this Court ordered to transfer the M.O.P from the file of the Family Court, Pondicherry to the file of Additional Mahila Court, Cuddalore and it is re-numbered as M.O.P.No.100 of 2017. Now, after the period of 4 years, due to some other reasons, the first deceased along with her father consumed poison and died. Therefore, the petitioners are nothing to do with the crime as alleged by the prosecution. He would further submit that A.1 was arrested and remanded to judicial custody. The other accused persons were released on bail.

4.The learned Additional Public Prosecutor appearing for the State would submit that the first accused got married with the first deceased on 26.10.2015. Thereafter, due to dowry harassment and also cruelty by the accused persons, the first deceased was driven out from the matrimonial house. Though there were so many court proceedings pending between the accused and the first deceased, the harassment and also demand of dowry were continued till the suicide of first deceased and her father. Due to the harassment and also dowry demand by the accused persons, on 12.02.2020, the first deceased and her father consumed poison and died. Further, the report from the Revenue Divisional Officer is pending.

5.It is seen that there are totally six accused persons, in which, the petitioners herein are arrayed as Accused Nos.2 and 5 respectively. The first petitioner is the mother of the first accused and the second petitioner is the sister of the first accused. The marriage between the first accused and the first deceased was solemnized on 26.10.2015 and thereafter, there was a dispute between both the families. Therefore, the first accused left the first deceased at her parents house and the first deceased settled there. Thereafter, the first accused filed divorce petition in M.O.P.No.206 of 2016. Further, there are so many court proceedings pending which are filed both by the first accused and the first deceased against each other. While being so, on 12.02.2020, after a period of four years

from the date of her arrival at her parents house, the first deceased along with her father committed suicide by consuming poison. Further, it is also seen from the suicidal note that the first deceased was driven from the matrimonial home in the year 2016 itself for demanding huge dowry. Thereafter, there were lot of court proceedings between the first accused and the first deceased. Therefore, there is no instigation or dowry harassment by the petitioners soon before the death of the first deceased.

6. Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. 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 on which the order copy made ready, before the learned Judicial Magistrate II, Cuddalore on condition that each of the petitioners shall execute a separate 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners 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 first petitioner shall report before the respondent police as and when required for interrogation and the second petitioner shall report before the respondent police daily at 10.30 am for a period of two weeks and thereafter, as and when required for interrogation.

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

[d] the petitioners 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 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].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

-sd/-
01/07/2020

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 II,
CUDDALORE.

2 THE CHIEF JUDICIAL MAGISTRATE,
CUDDALORE DISTRICT.[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
CUDDALORE O.T P.S.,
CUDDALORE DISTRICT.

CC to V.BALAMURUGAN Advocate on payment of necessary charges

CRL OP.8119/2020

Date :01/07/2020

GKS (RD) :03/08/2020

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