

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.OP.No.10202 of 2020

D.Wilson

... Petitioner

Vs.

The State of Tamil nadu rep by
The Inspector of Police,
W1- All Women Police Station,
Thousand Lights,
Chennai - 06.
Crime No.4 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to enlarge the petitioner on bail in the event of their arrest in Crime No.4 of 2020 on the file of the respondent police.

For Petitioner : M/s.R.Varalakshmi

For Respondent : Mr.M.Mohammad Riyaz
Additional Public Prosecutor

O R D E R

(This case has been heard through video conference)

The petitioner who apprehend arrest at the hands of the respondent police for the offences publishable under Sections 498 (A) and 506 (i) IPC, in Crime No.4 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner was earlier married to the defacto complainant on 19.08.2013 and out of the wedlock, they have a five year old female child. Whiles, the petitioner had driven out his wife and while the earlier marriage was in subsistence, the petitioner performed second marriage on 21.12.2018 with the friend of the defacto complainant and thereafter, celebrated the reception on 18.06.2020 and later, the defacto complainant came to know this. Hence the complaint.

3. The learned Counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case due the matrimonial dispute. He would submit that the defacto complainant and the petitioner got married on 19.08.2013 and within two years of marriage, the defacto complainant deserted the petitioner and left away and that now has come with the false complaint. He would submit that the petitioner, in order to show his bonafide, has deposited an amount of Rs.10,00,000/- (Rupees Ten Lakhs Only) by way of Fixed Deposit favouring his daughter Basilia Amy Wilson. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the defacto complainant and the petitioner got married on 19.08.2013 and out of the wedlock, a five year old female child was born. The petitioner while the earlier marriage was in subsistence performed the second marriage with the friend of the defacto complainant and celebrated reception on 18.06.2020 declaring the second marriage. However, he opposed for grant of bail to the petitioner.

5. Learned counsel for the intervener submitted that the defacto complainant married the petitioner on 19.08.2013 and that they have a female child and the petitioner during the subsistence of the earlier marriage married the friend of the defacto complainant and he had also harassed her and when the defacto complainant had questioned her, the petitioner had intimidated her. He would further submit that the amount of Rs.10,00,000/- (Rupees Ten Lakhs Only) is accepted by the defacto complainant without prejudice to her right to claim maintenance for herself and her child in accordance with law. He would further submit that the defacto complainant may be permitted to use the interest on the Fixed Deposit for the educational and other expenses of the child.

6. Taking into consideration the facts and submissions of the learned Counsel, the defacto complainant is at liberty to file appropriate petition seeking maintenance for herself and her child in accordance with law and the defacto complainant is entitled to use the interest on the Fixed Deposit for the educational and other expenses for the welfare of the child.

7. In view of the above, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions.

8. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance, within a period of fifteen days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Metropolitan Magistrate, Additional Mahila Court, Egmore, Chennai, on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two surety, 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 petitioner 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 petitioner shall report before the respondent daily at 10.30 a.m. for a period of two weeks and thereafter every Monday at 10.30.a.m. until further orders.**

[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 abscond, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

सत्यमेव जयते
-sd/-
25/08/2020

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 METROPOLITAN MAGISTRATE,
ADDITIONAL MAHILA COURT,
EGMORE, CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

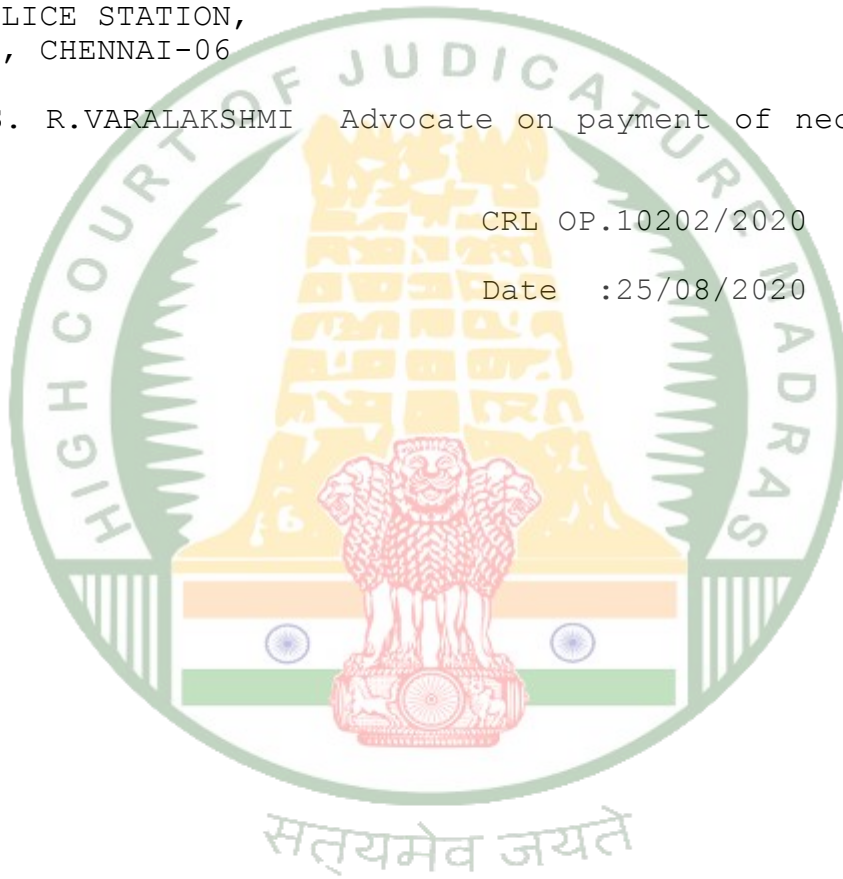
3 THE INSPECTOR OF POLICE,
W1 ALL WOMEN POLICE STATION,
THOUSAND LIGHTS, CHENNAI-06

CC to M/S. R.VARALAKSHMI Advocate on payment of necessary
charges

CRL OP.10202/2020

Date :25/08/2020

MK:08/09/2020



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