

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.11378 of 2020

1.M.Mohamed Yahiya ... Petitioners

2.Razia Begam

3.M.Sadam Hussain

Vs.

The State rep. by Respondent

The Inspector of Police,
Podhanur Police Station,
Coimbatore City,
Coimbatore District.

(Crime No.298 of 2020)

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail pending investigation in Crime No.298 of 2020 on the file of the respondent police.

For Petitioner : M/s.Vedavalli Kumar

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (Crl.Side)

ORDER

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences under Sections 498A of IPC, in Crime No.298 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant/Ashma is that the marriage between her and the first accused took place on 16.08.2014. At that time, 30 Sovereigns of gold and other household articles were given. Further, her parents had spent Rs.5 lakhs for the marriage and that she lived along with her husband as a joint family at Chennai. Few months after, the parents of her husband had demanded more dowry and compelled her to do all the household works. Further, the husband of the defacto complainant had compelled her for physical relationship often and

had physical relationship even when she was pregnant. Thereafter, she was taken to Dubai by her husband and was harassed there by him. Thereafter, her husband got a job in Qatar. Even thereafter, her husband and relatives continuously harassed her and also suspected her. Hence, the complaint.

3. The learned counsel for the petitioners submitted that the petitioners are father, mother and brother of the first accused and due to misunderstanding, the defacto complainant has left the Matrimonial home and has given an exaggerated and false complaint. He would submit that the co-accused/A1, the husband of the defacto complainant has been granted Anticipatory Bail by the learned Principal & District Sessions Judge, Coimbatore in C.M.P.No.587/2020. He would further submit that based on the false allegation as stated by the defacto complainant and a false case has been foisted against these petitioners. Hence, he prays to grant anticipatory bail to the petitioners.

4. The learned Government Advocate submitted that the husband of the defacto complainant and the family members harassed her by demanding dowry. In order to protect her, she had left the matrimonial home and gave a complaint. Hence, he opposed for grant of anticipatory bail.

5. Taking into consideration the facts and circumstances of the case and also of the fact that the co-accused has been granted anticipatory bail by the learned Principal & District Sessions Judge, Coimbatore in C.M.P.No.587/2020, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6. Accordingly, the petitioners are ordered to be released on anticipatory bail in the event of arrest or on their 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 Judicial Magistrate II, Alandur, on condition that 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 respondent police or the police officer who intends to arrest or to the satisfaction of the said Magistrate, on further conditions 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] if the petitioners fail to surrender before the said Magistrate within a period of fifteen days, this order shall stand automatically cancelled.

[c] the petitioners shall report before the respondent police every day at 10.30 a.m., for a period of one week and thereafter, as and when required.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioners shall not abscond either during investigation or trial;

[f] 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]**; and;

[g] if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
31/07/2020

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 NO II,
ALANDUR.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PODHANUR POLICE STATION,
COIMBATORE CITY,
COIMBATORE DISTRICT.

+1 CC to M/S. VEDAVALLI KUMAR Advocate on payment of necessary charges SR.NO.5834

CRL OP.11378/2020

Date :31/07/2020