

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Crl.O.P.No.12384 of 2020

and

Crl.M.P.No.5115 of 2020

1.Kanagaraj
2.N.Sampoornam
3.M.Natarajan

... Petitioners

Vs

The State Represented by,
The Inspector of Police,
All Women Police Station,
Salem District.
(Cr.No.5 of 2020)

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioners on bail in the event of their arrest in Connection with the Crime No.5 of 2020 pending on the file of the respondent police.

For Petitioners : Mr.V.S.Kesavan
For Intervenor : Mr. Ali Hassan Khan
For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 498 A, 406, 506 (1) of IPC and Section 4 of Dowry Prohibition Act in Crime No.5 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per defacto complainant is that she got married with the first petitioner on 10.03.2019. At the time of marriage, 120 sovereigns of gold jewellery and one diamond necklace which is worth about Rs.60 lakhs and other gifts were given. Thereafter, the first petitioner had taken all the jewels and he started a business. Later, the defacto complainant came to know that the first petitioner sold the jewels and started a business. While the first petitioner is physically well, there was no consummation between them and thereafter, the medical examination of the first petitioner revealed that he is impotent. While so, the first petitioner had taken an amount of Rs.9.5 lakhs from the brother of

the defacto complainant and later, the defacto complainant was harassed by the petitioner and his parents. Later, she was driven out of the house. Hence, the complaint.

3. The learned counsel for the petitioners would submit that the petitioners are innocent persons and a false case has been given on account of a matrimonial dispute between the defacto complainant and the first petitioner. He would submit that the defacto complainant is a Doctor and it is a second marriage for the defacto complainant. He would further submit that earlier the defacto complainant was married to one Sidheshwaran during the year 2009. Subsequently, the defacto complainant had raised similar allegations against the said Sidheshwaran and there was a dispute between the defacto complainant and her earlier husband. Later, the defacto complainant had filed a petition for divorce in H.M.O.P.No.51 of 2014 raising similar allegations and finally it ended up in divorce on 27.04.2016. He would further submit that the initial marriage life between the first petitioner and the defacto complainant was going on smoothly and that there was a financial transaction between the first petitioner and the brother of the defacto complainant. During such time, the brother of the defacto complainant who is also a Doctor, wanted to purchase some properties and thereby, on 04.10.2019, the first petitioner had given Rs.2 lakhs to him. Subsequently, for the purpose of tax, the brother of the defacto complainant had deposited some amounts in his accounts and the petitioner had withdrawn those amounts and handed over the amounts to the brother of the defacto complainant for purchase of property. Now the defacto complainant, taking advantage of those transactions, has filed a false complaint. He would further submit that the present complaint has been filed in retaliation to the legal notice sent by the petitioner to the defacto complainant on 09.07.2020. After the receipt of the legal notice, the defacto complainant without giving any reply, has filed the present complaint on 29.07.2020. He would further submit that the defacto complainant on her own accord left the matrimonial home on 08.07.2020 and now an exaggerated complaint has been given. He would further submit that the petitioners are prepared to deposit the original title deeds of the immovable property worth about Rs.20 lakhs to the credit of crime number in order to show their bona fides. Hence, he prays for grant of anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the marriage between the defacto complainant and the first petitioner took place on 10.03.2019. At the time of marriage, a diamond necklace worth Rs.60 lakhs and 120 Sovereigns of jewels and other gifts were given to the first petitioner. It was stated that the first petitioner was working in U.S.A. and thereafter, the first petitioner did not go to U.S.A and that he had taken the jewels from the defacto complainant for starting a business and also money from the brother of the defacto complainant. Later, the first petitioner refused to give back the money and he along with his family members has harassed the defacto complainant and driven her out of the matrimonial home. Hence, he vehemently opposed for grant of anticipatory bail to the petitioners.

5. Mr. Ali Hassan Khan, learned counsel for the intervenor would submit that the marriage between the first petitioner and the defacto complainant is a arranged marriage. The first petitioner knowing fully well that the defacto complainant was a divorcee, agreed for the marriage and the marriage was conducted on 10.03.2019 and at the time of marriage, a diamond necklace which is worth about Rs.60 lakhs and 120 sovereigns of jewels and other gifts were given to the first petitioner. Later, the brother of the defacto complainant has also given an amount of Rs.9.5 lakhs to the first petitioner. The first petitioner took all the jewels of the defacto complainant and also the money given by the brother of the defacto complainant for starting industry and thereafter, cheated the defacto complainant. Later, the defacto complainant came to know that the first petitioner is also an impotent person and when the defacto complainant and her relatives had questioned the first petitioner, the defacto complainant was harassed by the petitioners and was driven out from the matrimonial home. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

6. Heard both sides and perused the materials available on record.

7. Taking into consideration the facts and submissions of the learned Counsel and that the petitioners have come forward to deposit the original title deeds of the immovable property to the credit of crime number, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

a. Accordingly, the petitioners are directed to deposit the original title deeds of the immovable property worth about Rs.20,00,000/- (Rupees Twenty lakhs Only) standing either in their names or their relative's name, to the credit of Cr.No.5 of 2020 and on such deposit, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days from the date of receipt of a copy of their order, before the learned Judicial Magistrate, Rasipuram, on condition that 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:

[b] 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 petitioners shall report before the respondent Police daily at 10.30 a.m., for a period of two weeks and thereafter on every Monday at 10.30 a.m., until further orders.

[c] the petitioners 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 absconds, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered. Consequently, connected Minscellaneous Peitition is closed.

-sd/-

22/09/2020

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,
RASIPURAM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE, सत्यमेव जयते
ALL WOMEN POLICE STATION,
RASIPURAM, SALEM DISTRICT

+1 CC to M/S. V.S.KESAVAN Advocate on payment of necessary charges Sr.6412

+1 CC to M/S. Ali Hassan Khan Advocate on payment of necessary charges Sr.6430

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