

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.16626 of 2020

1.Khader Aslam @ Aslam Abdul Kadher Shatir ... Petitioners

2.S.Kyrunissa @ Kyrunissa Syed Mohamed

Vs.

The State Represented by, ...Respondent

The Inspector of Police,

W-5, AWPS-Vepery Police Station,

Chennai.

(Crime No.3/2020).

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of their arrest by the respondent police in Crime No.3 of 2020 pending investigation on the file of the respondent police.

For Petitioners : Mr.I.Abdul Basith

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

ORDER

(The case has been heard through video conference)

The petitioners who apprehends arrest at the hands of the respondent police for the offences publishable under Section 498 (A) of IPC, in Crime No.3 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the marriage between the 1st accused and the defacto complainant took place in the year 2007 and thereafter, the 1st accused and the defacto complainant were living in Dubai, at the instigation of the petitioners the first accused harassed the defacto complainant and committed cruelty against her. The further allegation is that the first accused had recently married another girl. Hence the complaint was registered as against the petitioners.

3. The learned Counsel for the petitioners submitted that the petitioners are innocent person and they have not committed any offence as alleged by the prosecution and a false case have been foisted against them. He further submitted that the first accused is the husband of the defacto complainant, first and third petitioners are the father-in-law and the mother-in-law of the defacto complainant.

4. The learned Additional Public Prosecutor submitted that the marriage between the 1st accused and the defacto complainant took place in the year 2007 and they have 5 children, thereafter, the 1st accused and the defacto complainant were living separately in Dubai. He further submitted that at the instigation of the petitioners the first accused harassed the defacto complainant and committed cruelty against her. The further allegation is that the first accused had recently married another girl. However, he opposed for grant of anticipatory bail to the petitioners.

5. Taking into consideration the facts and submissions of the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions;

6. Accordingly, the petitioners are directed to be released on bail in the event of their arrest or on their appearance, **within a period of fifteen days from the date on which the copy of the order is made ready**, before the **learned Additional Mahila, Metropolitan Magistrate Court, Egmore**, on condition that the petitioners shall execute a separate bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** with two **sureties**, 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 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 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 were breached 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.

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

-sd/-

28/10/2020

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 ADDITIONAL MAHILA, METROPOLITAN
MAGISTRATE COURT, EGMORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
W-5, AWPS-VEPERY POLICE STATION,
CHENNAI.

CC to M/S. I.ABDUL BASITH Advocate on payment of necessary charges

CRL OP.16626/2020

सत्यमेव जयते Date :28/10/2020

TA-05/11/2020

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