

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.18573 of 2020

and

Crl.M.P.No.8512 of 2020

1.Jayachandran
2.Indira
3.G.Jayaraman

... Petitioners

Vs.

The State
Rep. by Inspector of Police
All Women Police
Harur, Harur Taluk, Dharmapuri District
(Crime No.15 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioners on bail in the event of his arrest in Crime No.15 of 2020 on the file of the Respondent.

For Petitioner : Mr.N.Elumalai

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

For Intervenor : Mr.G.Saravanan

O R D E R

(This Case has been heard through video conferencing)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 498 IPC and Section 5 of Dowry Prohibition Act, in Crime No.15 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant viz. Banumathy is that the marriage between her and the petitioner took place on 16.07.2018 and within a month of their marriage, her husband had taken her to Poland and without her consent, she was compelled to work in a restaurant. The further allegation is that the petitioner used to drink everyday and assaulted and committed

cruelty on her. Thereafter, the defacto complainant informed the same to her mother, thereby, her mother took a flight ticket and brought her back to India. After coming to India, she filed a petition for divorce before the family court, at that time, the relatives of the 1st accused came to her and consoled her and made her withdraw the divorce petition and took her to the matrimonial house in India and demanded Rs.25 Lakhs as additional dowry and they had also assaulted, threatened her and driven her out of the matrimonial house.

3.The learned counsel appearing for the petitioners would submit that it is a case of matrimonial dispute which has been exaggerated and a false complaint has been given against them. Even as per the F.I.R. the main allegation is only against the 1st petitioner and the petitioners are the parents of A1.

4.The learned Additional Public Prosecutor, appearing for the respondent would submit that the marriage between the defacto complainant and A1 took place on 16.07.2018, thereafter, the victim was taken to Poland where she was compelled to work in a restaurant and she was assaulted and subjected to cruelty. Thereafter, the mother of the victim had taken flight ticket and brought her back and a petition for divorce has been filed before the family court. He would further submit that the relatives of A1 compelled her to withdraw the divorce petition and took her to the matrimonial home and further demanded Rs.25 Lakhs towards additional dowry and threatened her.

5.Mr.Saravanan, the learned counsel appearing for the intervener would submit that the marriage between the defacto complainant and A1 took place on 16.07.2018, thereafter, the victim was taken to Poland where she was compelled to work in a restaurant and she was assaulted and subjected to cruelty. Thereafter, the mother of the victim had taken flight ticket and brought her back to India and a petition for divorce has been filed before the family court. He would further submit that the relatives of A1 compelled her to withdraw the divorce petition and took her to the matrimonial home and further demanded Rs.25 Lakhs towards additional dowry and threatened her.

6.Heard the learned counsel for the intervener, petitioner as well as the Additional Public Prosecutor and perused the other materials placed on record, including F.I.R.

7.Taking into consideration of the serious nature of offence committed by the 1st petitioner, this Court is not inclined to grant bail to the petitioner. The criminal original petition in respect of the 1st petitioner stands dismissed.

8.Taking into consideration of the fact that the 2nd and 3rd petitioners are only the parents of the 1st accused, this Court is inclined to grant anticipatory bail to the 2nd and 3rd petitioners with certain conditions.

(a) Accordingly, the 2nd and 3rd petitioners are directed 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 is made ready, before the Judicial Magistrate Court, Harur Dharmapuri, on further condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties each for the 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 automatically;

[b] the 2nd and 3rd petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the respondent/police may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the 2nd and 3rd petitioners, shall report before the respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter on every Monday at 10.30 a.m. until further orders.

[d] the 2nd and 3rd petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the 2nd and 3rd 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 2nd and 3rd petitioners in accordance with law as if the conditions have been imposed and the 2nd and 3rd 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].

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

9. With the above directions, this Criminal Original Petition in respect of the 1st petitioner stands dismissed. The Criminal Original Petition in respect of the 2nd and 3rd petitioner stands ordered. Consequently, connected miscellaneous petition is closed.

-sd/-
21/12/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

TO

1 THE JUDICIAL MAGISTRATE COURT,
HARUR, DHARMAPURI DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE, HARUR,
HARUR TALUK, DHARMAPURI DISTRICT.

+1 CC to M/S.N.ELUMALAI Advocate on payment of necessary charges
SR.No.8531

CRL OP.18573/2020
& CRL.MP.8512/2020

Date :21/12/2020

cs 04/01/2021



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