

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.19437 of 2020

1.K.J.Jayasrinivasan
2.K.G.Janakiraman
3.J.Muthulakshmi

... Petitioners

Versus

State Rep.by
The Inspector of Police,
W7, All Women Police Station,
Anna Nagar, Chennai.
(FIR.No.10 of 2020)

... Respondent

Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of his arrest in connection with FIR.No.10 of 2020 on the file of the respondent police.

For Petitioners : Mr.K.Sumathi

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 for the alleged offence under Sections 498A, and 420 of IPC, r/w Section 4 and 6 of the Dowry Prohibition Act, in Crime No.10 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the first petitioner is the husband of the defacto complainant and the petitioners 2 and 3 are the parents of the first petitioner. The marriage between the first petitioner and defacto complainant was solemnised on 27.08.2012 and due to the wedlock between them, a female child Karunya Lakshmi was born. According to the petitioners, due to matrimonial dispute, the defacto complainant demanded the first petitioner to come and stay in an independent house belonging to her father and the first petitioner also, in order to purchase peace, lived there. However, the matrimonial dispute intensified and therefore, the first petitioner returned to his parents house. It is stated that the defacto complainant has filed OP No. 1315 of 2020 before the VII Additional Family Court, Chennai for divorce in which notice is yet to be served on the first petitioner but he came to know about the same when the OP No. 405 of 2020 filed by him before this Court under the Guardian and Wards Act came up for hearing. According to the defacto complainant, the petitioners have harassed her and demanded dowry and hence, a complaint was given.

3. The learned counsel appearing for the petitioners would submit that unfortunately the first petitioner died on 08.12.2020, due to cardiac arrest at Appollo Hospital. The marriage between the first petitioner and the defacto complainant was solemnised in the year 2012 and they are having a girl child. Due to matrimonial dispute, both are living separately. The defacto complainant filed OP.No.1315 of 2020 before the VII- Additional Family Court, Chennai and it is pending. The first petitioner also filed a Petition under the Guardian and Wards Act in OP.No.405 of 2020 for custodial rights of the female child and it is pending before this Court. While so, a false complaint was given as if the first petitioner along with his parents committed matrimonial cruelty and demanded dowry. The second and third petitioner are parents and they are unnecessarily involved in this case. Hence, he prays for the grant of anticipatory bail to the petitioners.

4. Heard both sides and perused the materials on record.

5. The learned Additional Public Prosecutor (Crl.Side) appearing for the respondent police submitted that due to a matrimonial dispute, the complaint was given by the defacto complainant alleging that she was subjected to matrimonial cruelty by the petitioners. The further allegation is that the first petitioner had forged the signature of the defacto complainant to take over the BMW car belonging to the defacto complainant. Now, the first petitioner/husband died and the allegation as against the petitioners herein is that they instigated the first accused/husband to demand dowry. Therefore, he vehemently opposed for grant of bail to the petitioner.

6. Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. Accordingly, the petitioners are ordered 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 was made ready, before the Learned Additional Mahila 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 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 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] the petitioners shall report before the respondent police daily at 10.30 a.m., for a period of two weeks 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 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].

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

-sd/-

10/12/2020

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 COURT
EGMORE, CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
W7, ALL WOMEN POLICE STATION,
ANNA NAGAR, CHENNAI.

+2 CC to M/S.K.SUMATHI Advocate on payment of necessary charges
Sr.8118

WEB COPY

CRL OP.19437/2020

Date :10/12/2020

RVR 17/12/2020