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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated : **23/09/2020**

PRESENT

The Hon'ble Mr.Justice V.BHARATHIDASAN

CRL.O.P.(MD). No.10156 of 2020

M.Babu

: Petitioner/Sole Accused

Vs.

The State through,
The Inspector of Police,
Muthukulathur Police Station,
Muthukulathur,
Ramanathapuram District,
Under Crime No.500 of 2020.

: Respondent/Complainant

For Petitioner : M/s.K.R.Laxman,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL UNDER SECTION 438 of Cr.P.C.

PRAYER :-

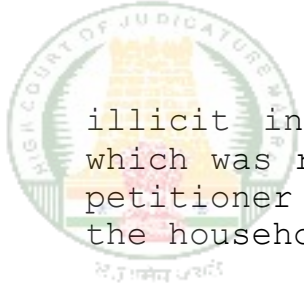
For Anticipatory Bail in Crime No.500 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police in connection with a case registered in Crime No.500 of 2020 for the offences punishable under Sections 294(b), 323,379 of the Indian Penal Code and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, seeks anticipatory bail.

2. Heard both sides.

3.The *defacto* complainant is the wife of the petitioner herein. The allegation is that the marriage between them took place on 24.05.1999 and they are also having grown-up children. The petitioner used to quarrel with his wife, due to which, she was driven out from the matrimonial home. That apart, the petitioner had



illicit intimacy with one Muneeswari and planned to marry her, which was resisted by the *defacto* complainant, because of which, the petitioner attacked the *defacto* complainant and has also taken away the household articles. Hence, the complaint.

4. The learned counsel appearing for the petitioner would submit that the petitioner is a Government servant and there is a matrimonial dispute between the petitioner and the *defacto* complainant. Now, a divorce petition is also pending before the Sub Court, Muthukulathur, and only in order to wreak vengeance, the present complaint has been filed.

5. The learned Government Advocate (Criminal side) appearing for the respondent would submit that the petitioner is said to have attacked the *defacto* complainant/wife and taken away the jewels and household articles.

6. Considering the facts and circumstances of the case and also considering the fact that it is a matrimonial dispute between the husband and wife and the divorce petition is also pending between them, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of four weeks from the date of receipt of a copy of this order, before the Judicial Magistrate Court, Muthukulathur, Ramanathapuram District, on condition that the petitioner shall execute a bond for a sum of Rs.20,000/- (Rupees Twenty Thousand only) with two sureties each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) the petitioner 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 petitioner shall report before the respondent police as and when required for interrogation;

(c) the petitioner 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]**; and

(f) if the petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE,
MUTHUKULATHUR,
RAMANATHAPURAM DISTRICT.
2. DO THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
3. THE INSPECTOR OF POLICE,
MUTHUKULATHUR POLICE STATION,
MUTHUKULATHUR,
RAMANATHAPURAM DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.10156 of 2020
Date : 23/09/2020

SML
TE/VR/SAR-III : 25/09/2020 : 3P/5C