



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/01/2020

PRESENT

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

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CRL OP(MD) . No.9858 of 2019

1. Abubuckar,
2. Baritha Begam,
3. Azrah Banu,
4. Parveen, ... Petitioners/Accused No.3-6

Vs

The State, represented through
The Inspector of Police,
Silaiman Police Station,
Madurai District,
in Crime No. 244/2019. ... Respondent/Complainant

For Petitioners : M/s.R.Karunanidhi,
Advocate.

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

For Intervenor : Mr.R.Anand, Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No. 244 of 2019, on the file of the Respondent Police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioners and the learned Government Advocate(Crl. Side) appearing for the respondent.

2. The petitioners apprehending arrest at the hands of the respondent/ police for the offences punishable under sections 498 (A), 294(B), 355 of I.P.C., Section 4 of Dowry Prohibition Act, 1961 and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 in Crime No. 244 of 2019 and then altered into under Section 4 of Dowry Prohibition Act, 498(A), 294(b), 355, 506(ii) of IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002, on the file of the respondent police, seek/s anticipatory bail.



3.The Petitioners are the father, mother and sisters of A1 and A2, who are in-laws of the De-facto complainant who had given in marriage his daughters to the sons of the first and second Petitioners, who are father and mother of A1 and A2. A1 and A2 were arrested on 6.7.2019 and thereafter this Court considering the allegations and representations made, granted bail in Crl.O.P(MD) No.10295 of 2019 by order, dated 24.7.2019. It is seen that the marriage had taken place on 11.11.2018 and thereafter this case came to be registered on 5.7.2019. During their marriage, there have been presentation of sreedhana articles and thereafter, there seems to be some demand of dowry on the side of the Petitioners, for which, the present case came to be registered.

4.The contention of the petitioners is that they never demanded any money from the de-facto complainant or his family members. The de-facto complainant was compelling the 1st and 2nd petitioner's son to leave them, reside with his daughter in his home. This was not heeded to. Hence, false allegations against the petitioners and their family members had been made. The de-facto complainant had taken back his daughters forcibly and thereafter, lodged a complaint to the Superintendent of Police, which was forwarded to the respondent Police. The de-facto complainant having high-handed action, acted the complaint, immediately forwarded and registered as though search for dreaded accused, around 20 Police men and one woman police had come to the house of the petitioners on 06.07.2019 at about 3.00 a.m., forcibly dragged out his son. The 2nd petitioner, in-fact, fainted seeing the fiasco created by the police. The first petitioner pushed down the 2nd petitioner and thereafter, his son was taken and shown as arrest. The respondent Police had acted against the dictum laid down by the Hon'ble Apex Court in the matrimonial dispute. Further submitted that 3rd and 4th petitioners are daughters of 1st and 2nd petitioners and they have been given in marriage long back. The 3rd petitioner is residing along with her family at Puliyangulam and the 4th petitioner is residing with her family at Chennai. The entire family members have been falsely implicated with vindictiveness.

5.The learned counsel for the de-facto complainant/intervenor strongly opposed the anticipatory bail application and he would further submit that when the case is referred to mediation, grant of anticipatory bail by this Court will only jeopardise the mediation. Further he would submit that the sreedhana articles are to the tune of Rs.8 lakhs and jewels have not been returned and this would never be returned by the Petitioners. He would fairly submit that the articles are only sreedhana articles. He would further submit that only if A1 and A2 appear before mediation, it would be resolved.

6.The learned Government Advocate(Criminal side) submitted that the investigation is at initial stage and due to the interim <https://hccservicescourts.gov.in/cases> they were unable to proceed with the case.



7. Taking into consideration the facts of the case and the submissions by learned counsels and the fact that the First Information Report is inclusive of crime under the Dowry Prohibition Act and there are legal course available to receive back the sreedhana articles, this Court inclined to grant anticipatory bail to the petitioners.

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, before the learned Judicial Magistrate No.II, Madurai on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with common sureties, each for a like sum to the satisfaction of the said Magistrate, on further condition that:

[a] if the petitioners fail to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled.

[b] the Petitioner to report before the respondent Police on receipt of any summons, if they are 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 229-A IPC.

sd/-
22/01/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE JUDICIAL MAGISTRATE NO.II,
MADURAI.



2 -DO-THRO-THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE
SILAIMAN POLICE STATION MADURAI DISTRICT

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4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.R.ANAND, Advocate (SR-1183[I] dated 22/01/2020)
+1 CC to M/s.I.ABAR MD ADULLAH, Advocate (SR-1204 dated 23/01/2020)

ORDER
IN
CRL OP(MD) No.9858 of 2019
Date :22/01/2020

vsn
ES/PN/SAR 1/23.01.2020/4P/7C