



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 04/11/2020

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.12384 of 2020

1.Gomathi (Nancy)
2.Amutha
3.Sreenivasa Moorthi (Josuva David) ... Petitioners/Accused
No.2 to 4

Vs

The State rep.by
The Inspector of Police,
All Women Police Station,
Colachel Post,
Kanyakumari District.
Crime No.13/2019

... Respondent/Complainant

For Petitioners : Mr.S.C.Herold Singh,
Advocate.

For Respondent : Mrs.M.Ananthadevi,
Government Advocate (Crl.Side)

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

PRAYER :-

For an Anticipatory Bail in Crime No.13 of 2019 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/A-2 to A-4 apprehending arrest at the hands of the respondent police for the offences punishable under sections 376, 120(B), 190, 498(A), 294(b) and 506(i) of IPC and Sections 4 & 5 of Dowry Prohibition Act, in Crime No.13 of 2019 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant is wife of A-1 and the petitioners herein are in-laws. The first accused got married the defacto complainant on 27.11.2014. On demand of A-1 and the petitioners herein, a sum of Rs.20 lakhs as dowry and household articles worth of Rs.2 lakhs were given by the defacto complainant's family members. While being so, after their marriage



no issues for A-1 and the defacto complainant. Therefore, A-1 administering sedated drink to the defacto complainant and allow the third petitioner herein to commit rape on her. Thereafter, the defacto complainant got pregnant and delivered two child. Hence, the complaint.

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

4. The learned counsel appearing for the petitioners submitted that totally there are four accused and A-1 was arrested and remanded into judicial custody and the petitioners herein are A-2 to A-4. He further submitted that A-1/husband of the defacto complainant not allowed the third petitioner herein to commit rape on his own wife and insofar as the allegation against the petitioner Nos/1 & 2 herein is that they demanded huge dowry from the defacto complainant and except no other allegations. Hence, he seek anticipatory bail.

5. The learned Government Advocate (Crl. Side), on instructions, submitted that totally there are four accused in which the petitioners herein are arraigned as A-2 to A-4 and A-1 was already arrested and remanded into judicial custody. She further submitted that as against A-4 there is very serious allegations that on administering sedated drink to the defacto complainant by A-1, the third petitioner herein was allowed to commit rape on the victim, thereby she got pregnant and also delivered child. Therefore, custodial interrogation of the petitioners is very much required in this case. She vehemently opposed to grant of anticipatory bail to the petitioners herein.

6. It is seen from the records that totally there are four accused in which the petitioners herein are arraigned as A-2 to A-4 and A-1 was already arrested and remanded into judicial custody. Insofar as the petitioners herein concerned they are in-laws of the defacto complainant and they demanded huge dowry. Insofar as the third petitioner is concerned with the help of A-1 he committed rape on the defacto complainant. Therefore, A-4 has committed very serious offence and hence this Court is not inclined to grant anticipatory bail to the third petitioner herein and this Court is inclined to grant bail to the petitioner Nos.1 & 2/A-2 & A-3 with certain conditions.

7. Accordingly, the Criminal Original Petition is partly allowed and the petition is dismissed as against the third petitioner/A-4 and the petitioner Nos.1 & 2/A-2 & A-3 are ordered to be released on bail in the event of arrest or their appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Eraniel, on condition that the petitioner Nos.1 & 2 shall execute a bond for a sum of Rs. Ten Thousand only) each 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 Nos.1 & 2 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 appear before the respondent police as and when required for interrogation;

(c) the petitioner Nos.1 & 2 shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner Nos.1 & 2 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 Nos.1 & 2 in accordance with law as if the conditions have been imposed and the petitioner Nos.1 & 2 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 accused/ petitioner Nos.1 & 2 thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
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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, ERANIEL.

2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.



3.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
COLACHEL POST, KANYAKUMARI DISTRICT.

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

ORDER
IN
CRL OP(MD) No.12384 of 2020
Date :04/11/2020

KSA
TK/PN/SAR.2/06.11.2020/4P/5C