

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.754 of 2021

Nagarajan

... Petitioner

Vs.

State Rep. by

The Inspector of Police,
Thiruthuraipoondi All Women
Police Station
Thiruvarur District.
(Crime No.05 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. 05 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr.P.Muthamizh Selvakumar

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

Totally, there are four accused, and the petitioner is arrayed as A1. He apprehends arrest at the hands of respondent police for the offence punishable under Sections 294(b), 352, 498(A) and 506(i) of I.P.C. Section 4 of T.N. Prohibition of Women's Harassment Act in Crime No.05 of 2020 and now, he has filed the above petition seeking for anticipatory bail.

2. The petitioner is the husband of defacto complainant. The case of the prosecution is that the marriage took place between the petitioner and the defacto complainant on 03.04.2015 and out of wedlock, they have a male child. Thereafter, the petitioner has got married second wife without informing the petitioner and also harassed the petitioner. In the said circumstances, the criminal case has been registered against him and now, he is seeking anticipatory bail.

3. The learned counsel appearing for petitioner would submit that it is a family dispute between the petitioner and the defacto complainant. He would submit that he is an innocent person, and he has been falsely implicated in this case. Now, the other arrested accused was released on bail. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that now the petitioner has got married another woman and he has got a child through A2. Hence, the respondent police has to conduct medical examination and the petitioner may be directed to co-operate with them. He would submit that A2 and A3 were arrested and released on bail. Hence, he opposed to grant anticipatory bail to the petitioner.

5. I have heard and considered the submissions made by the learned counsel appearing for petitioner as well as Additional Public Prosecutor and perused the records.

6. Taking into consideration the fact that it is only family dispute between husband and wife and now, the arrested accused are released on bail, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

a) Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate-II, Mannargudi, Thiruvarur on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, 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, and on further condition that:

[b] 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;

[c] the petitioner shall appear before the respondent police as and when required for interrogation and he is also directed to co-operate for the medical examination ;

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioner 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 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];

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

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-
21/01/2021

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 JUDICIAL MAGISTRATE,
NO.II, MANNARGUDI,
THIRUVARUR DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THIRUTHURAIPOONDI ALL WOMEN POLICE STATION,
THIRUVARUR DISTRICT.

CC to M/S.P.MUTHAMIZHSELVAKUMAR Advocate on payment of necessary charges

CRL OP.754/2021

Date :21/01/2021

cs 05/02/2021