

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Second day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.5607 of 2021

1 S.AUGUSTIN @ ELANGO VAN
2 SHANMUGAM
3 ANNAMMAL

[PETITIONERS / ACCUSED]

Vs

STATE REP.BY
INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SRIPERUMBUDUR,
KANCHEEPURAM DISTRICT.
CR.NO.13/2020.

[RESPONDENT]

For Petitioner : M/S.S.NAMBIRAJAN Advocate

For Respondent : M/S.S.KARTHIKEYAN, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

(The case has been heard through video conference)

The petitioners, who apprehend arrest at the hands of the respondent police in connection with a case in Crime No.13 of 2020 on the file of the respondent police for the alleged offences punishable u/s 323, 498-A and 494 of IPC, seek anticipatory bail.

2. The 1st petitioner is the husband and the petitioners 2 and 3 are parents-in law of the de facto complainant-Soniya. The 1st petitioner got married the de facto complainant on 04.09.2017. The allegations against the petitioners as made in the complaint are that right from the date of marriage, she was subjected to harassment by the petitioners and she was driven out of the matrimonial home. Thereafter, the 1st petitioner had filed a petition for divorce and he got married another lady. When she had approached the petitioners 2 and 3 and questioned them, they had criminally intimidated her. Thus, the case came to be registered on a complaint given by the de facto complainant.

3. The learned counsel for the petitioners submitted that the marriage of the 1st petitioner and the de facto complainant took place in 2017 and right from the date of marriage, there were misunderstanding between the couple and the 1st petitioner had been suffering cruelty in hands of the de facto complainant and therefore, in the year, 2019, he had filed a petition in I.D.O.P.No.10 of 2019 on the file of the learned District Judge, Kancheepuram, seeking divorce on the ground of cruelty. Thereafter the de facto complainant filed a petition under the provisions of The Domestic Violence Act before the Family Court, Tiruvallur, against the petitioners and in the same court, the de facto complainant has also filed a petition seeking maintenance which are pending. While so, the present complainant came to be given by the de facto complainant as if she was harassed by the petitioners.

4. The learned counsel for the petitioners further submitted that the petitioners are permanent residents of Orathur Village in Kundrathur Taluk, Kancheepuram District and they are ready to abide by any conditions that may be imposed by this court in the event of granting anticipatory bail.

5. The learned Additional Public Prosecutor, per contra, submitted that there have been matrimonial disputes between the 1st petitioner and the de facto complainant and during the subsistence of the first marriage, the 1st petitioner got married another lady and investigation is pending.

6. Considering the relationship of the parties and looking to the nature of incident and the nature of allegations made against the petitioners and also the fact that it is a matrimonial dispute, this Court is inclined to grant anticipatory bail to the petitioners subject to the following conditions:-

a) 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 of receipt of a copy of this order, before the learned Judicial Magistrate, Sriperumbudur, Kancheepuram District, on executing a 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 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 petitioners shall report before the respondent police as and when required by the police for interrogation.

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners have been released on bail by the learned Magistrate himself /Trial Court 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.

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

-sd/-
22/03/2021

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, सत्यमेव जयते
SRIPERUMBUDUR,
KANCHEEPURAM DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SRIPERUMBUDUR,
KANCHEEPURAM DISTRICT.

+1 CC to M/S.S.NAMBIRAJAN Advocate on payment of necessary charges
SR.No.3865

CRL OP.5607/2021

Date :22/03/2021

cs 01/04/2021



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