

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Thursday, the First day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V.BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.6471 of 2021

1 A.SUBRAMANIAM
2 A.SIRAJUDDEN

[PETITIONERS]

Vs

STATE REP BY
THE INSPECTOR OF POLICE,
VADAVALLI POLICE STATION,
VADAVALLI, COIMBATORE-641041.

[RESPONDENT]

For Petitioners : M/S B.RAMAMOORTHY Advocate

For Respondent : MR.S.KARTHIKEYAN Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioners are A1 and A2. Apprehending arrest at the hands of the respondent police for the alleged offence under Sections 294 (b), 424, 454 and 506(i) of IPC on the file of the respondent police in Crime No.59 of 2021, the petitioners seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant and the first petitioner are husband and wife. For both of them it is second marriage. There is a matrimonial dispute between the first petitioner and the defacto complainant and a petition for divorce was filed by the 1st petitioner against the defacto complainant and the same is pending. Both of them are living in the same house in separate rooms. Now the first petitioner sold the property in favour of the second petitioner and he has also taken possession of the house. Hence a complaint has been given by the defacto complainant.

3. The learned counsel appearing for the petitioners submitted that admittedly divorce petition and proceedings under Domestic Violence Act are pending between the parties. The defacto complainant is not living with the petitioner. Earlier, the first petitioner entered into a sale agreement with the second petitioner and also received advance. The defacto complainant forcibly taken possession of the house and on her false complaint the police also assaulted the first petitioner in the police station. He further stated that now the defacto complainant is in possession and still

residing in the house. Hence, the learned counsel prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that earlier the first petitioner and the de facto complainant were living in the same house. With the help of the second petitioner the first petitioner forcibly evicted the de facto complainant from the house. Hence the complaint has been given. He further stated that now the de facto complainant has taken possession.

5. Considering the facts and circumstances of the case, and the fact that it is a dispute between husband and wife and the de facto complainant has also taken possession of the property, 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-VI, Coimbatore, on condition that the petitioners 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, 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 appear before the respondent as and when required 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 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.

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

-sd/-

01/04/2021

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 VI,
COIMBATORE.
2. THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE DISTRICT. (FOR INFORMATION)
3. THE INSPECTOR OF POLICE,
VADAVALLI POLICE STATION,
VADAVALLI, COIMBATORE-641041.
4. THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S B. RAMAMOORTHY Advocate on payment of necessary charges

CRL OP. 6471/2021

Date : 01/04/2021

TK/22.04.2021

सत्यमेव जयते

WEB COPY