

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.05.2021

CORAM

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

Crl.O.P.No.9441 of 2021

Ramkumar Raju

... Petitioner

Vs.

The State of Tamil Nadu

... Respondent

Represented by Inspector of Police,
W-1, All Women Police Station, Thousand Lights,
Triplicane, Chennai.
Cr. No.4 of 2021.

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C.,
praying to enlarge the petitioner on bail in the event of his arrest
in Crime No.4 of 2021 on the file of the respondent police.

For Petitioner : Mr.P.Wilson

For Respondent : Mr.A.Damodaran,
Government Advocate, Criminal Side

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 498(A), 294(b), 313 and 323 IPC, in Crime No.4 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner and the defacto complainant were married on 25.01.2020. Thereafter, the defacto complainant was pregnant, but the petitioner did not want to have the child and therefore the petitioner regularly tortured her and on 12th March 2021, the petitioner kicked her in the stomach which caused bleeding and the fetus was aborted. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the complaint has been lodged by the defacto complainant only to harass and humiliate the petitioner. The petitioner had filed a petition for divorce petition in O.P.No.2135/21 before the Family Court at Chennai and intimated the same to the defacto complainant on 19.04.2021. Due to which this false complaint has been leveled against the petitioner. Therefore, he prays to grant anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl. side) would submit that the marriage between the petitioner and the defacto complainant took place on 25.01.2020, for both of them it is a second marriage. On the date of occurrence there was a quarrel between the petitioner and the defacto complainant, due to which the petitioner kicked the defacto complainant in the stomach and caused miscarriage of her fetus. Hence he vehemently opposed to grant anticipatory bail to the petitioner.

5. The learned counsel appearing for the intervenor would submit that on 12.03.2021 morning, the petitioner assaulted the defacto complainant and kicked her in the stomach due to which she was admitted in the hospital and the baby was aborted. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

6. Heard the counsel for the petitioner, intervenor and the Government Advocate.

7. On hearing the facts of the case it reveals that the both the petitioner and the victim girl were already divorced and on the consent of both the families they got married. Within a short period the victim got conceived and there was a quarrel between the petitioner and the victim. According to the complainant, her husband/ accused at the time of wordy quarrel kicked her and she got pain, and got aborted on 12.03.2021. But, she has not preferred any complaint against her husband. According to the intervenor she has not preferred a complaint for the reason that she wants to live with her husband. On the other hand the petitioner submits that she left matrimonial home, thereafter he filed a divorce petition and the private notice was served on the complainant, but the intervenor submits that the notice was served only on 01.05.2021, but the wife/ complainant gave complaint against the husband on 24.04.2021 under Sections 498(A), 294(b), 313 and 323 IPC. As per the contention of the petitioner, the complainant was not interested in carrying the child due to which she got aborted. As per medical record of GG Hospital reason for abortion is 'inevitable miscarriage'. All these facts need not be looked into at this stage, it is seen that the defacto complainant has filed a complaint after filing of the divorce petition by the petitioner. Considering the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of four weeks from the date of normal functioning of the Court below, (i.e.,) before the learned Additional Mahila Court, Egmore, Chennai, on condition that the petitioner shall execute 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 Judge concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

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

[d] the petitioner 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/s in accordance with law as if the conditions have been imposed and the petitioner/s 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/s, a fresh FIR can be registered under Section 229A IPC.

-sd/-

26/05/2021

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 ADDITIONAL MAHILA COURT,
EGMORE, CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
W-1, ALL WOMEN POLICE STATION,
THOUSAND LIGHTS,
TRIPPLICANE, CHENNAI.

+1 CC to M/S.P.WILSON ASSOCIATES Advocate on payment of
necessary charges SR.NO.6299

CRL OP.9441/2021

Date :26/05/2021

TA-23/06/2021

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