

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Eighteenth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.12990 of 2020

AND CRL.M.P.No. 5673 of 2020

M.M.PARTHIBAN

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY
INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
CHENGALPATU,
CHENGALPATU DISTRICT.
(CRIME NO.10/2020)

[RESPONDENT]

For Petitioner : M/S. G.SARANYA Advocate

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

FOR Intervenor : M/S. S.PUGAZHENDHI Advocate

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 petitioner, who apprehends arrest in connection with the case in Crime No.10 of 2020 on the file of the respondent police for the alleged offence u/s 498-A, 406, 420, 307 and 506(ii) of IPC and Section 4 of The Dowry Prohibition Act, seeks anticipatory bail.

2. I have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and also perused the records carefully.

3. There are totally three accused in this case and the petitioner has been arrayed as A1. The de facto complainant is the wife of A1. A1 married the de facto complainant on 19.12.2018. It is alleged that soon after the marriage, A1 and the other accused had started harassing the de facto complainant demanding dowry and driven her out from the matrimonial home. Hence, the case came to be registered on a complainant from the wife of the de facto complainant.

4. The learned counsel for the petitioner submitted that the petitioner is innocent of the alleged offence. It is second complaint. Earlier, with the similar allegations the de facto complainant made a complaint before the All Women Police Station, Tiruvallur, which was closed after enquiry. Thereafter, the present complaint came to be given before the All Women Police Station, Chengalpattu.

5. The learned counsel further submitted that earlier, when the matter was referred for mediation, the de facto complainant had agreed for settlement, but, at the last moment, she had refused to accept the settlement. According to the learned counsel, pending this petition, the de facto complainant has also filed a petition under the provisions of the Domestic Violence Act and the same has been pending on the file of the learned Judicial Magistrate-I, Poonamallee in D.V.C.No.3 of 2021. The co-accused were already released on bail and the petitioner is ready to abide by any condition that may be imposed by this court.

6. The learned Additional Public Prosecutor stoutly oppose the petition. He further submitted that it is a case of dowry harassment and investigation is pending.

7. The learned counsel for the intervenor submitted that he had already handed over the papers and change of vakalat to the de facto complainant and he is not appearing any more in this matter.

8. It is stated that a similar complaint given by the de facto complainant before the All Women Police Station, Tiruvallur, was already enquired and closed and this is second complaint with similar allegations. Considering the facts and circumstances of the case and also the fact that there is no serious allegation of harassment in connection with demand for dowry and also the fact that co-accused had been granted 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, Chengalpattu, 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 petitioner shall report before the respondent police as and when required by the police for interrogation.

[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 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. The miscellaneous petition is closed accordingly.

-sd/-
18/03/2021

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-II,
CHENGALPATTU.

2 THE CHIEF JUDICIAL MAGISTRATE,
CHENGALPET [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
CHENGALPATU, CHENGALPATU DISTRICT.

+1 CC to M/S G.SARANYA Advocate on payment of necessary charges
SR NO. 3797

CRL OP.12990/2020 &
CRL MP. 5673/2020

Date :18/03/2021