



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.12.2021

CORAM:

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

Crl.O.P.No.23266 of 2021
and
Crl.MP.No.13225 of 2021

1. Jude Domnic Savio
2. Catherin Arokia Raj ... Petitioners

Vs.

The State
Rep. By the Sub Inspector of Police,
W9-Villivakkam - All Women Police Station,
Chennai 600 049.
(Crime No.10 of 2021) ... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C.,
praying to enlarge the petitioner on bail on providing sufficient and
solvent sureties in the event of arrest pending enquiry and
investigation by the respondent police in the above Crime No.10 of
2021 or on his appearance before the Court.

For Petitioner : Mr.V.Surya Prakash

For Respondent : Mr.A.Gokula Krishnan
Additional Public Prosecutor

For Intervenor : Mr.M.Mohana Sundaram

ORDER

The petitioners, who apprehend arrest at the hands of the
respondent police for the alleged offences punishable under Sections
498-A and 506(2) IPC in Crime No.10 of 2021, on the file of the
respondent police, seek anticipatory bail.



2.The case of the prosecution is that the second petitioner is the mother-in-law of the defacto complainant and the 1st petitioner and the defacto complainant are husband and wife and they got two children. Among them, girl child aged about 9 years is a mentally retarded child. While so, the first petitioner had illegal relationship with his colleague viz., Ponnumani and got married. When the same was questioned by the defacto complainant, due to which, the first petitioner harassed her and assaulted her with wooden log and knife and caused injuries on her and later she escaped from the matrimonial home and lodged a complaint through 100. Based on the complaint made by the defacto complainant, the respondent police registered a case as against the petitioners.

3.The learned counsel appearing for the petitioners submits that the petitioners have not committed any such offence as alleged by the prosecution and they have been falsely implicated in this case. He further submits that the defacto complainant/1st petitioner's wife are still living in the same house with their children. He further submits that he is always willing to live with the defacto complainant and their children and he has no illegal relationship with another girl as alleged by the defacto complainant and she is his colleague . Hence, the learned counsel prays to grant anticipatory bail to the petitioners.

4. The learned counsel for the Intervenor submits that out of wedlock with the first petitioner, the defacto complainant got two children. Among them, girl child is a mentally retarded child . The first petitioner has not taken care of his wife and children and not permitted them to reside in the matrimonial house and without the source of income, the defacto complainant and their children suffered a lot. He further submits that the first petitioner had illegal relationship with his colleague and got married and to that effect, the learned counsel for the Intervenor produced the photographs of the first petitioner along with another girl before this court. He further submits that the said attitude of the first petitioner was questioned by the defacto complainant, due to which, he harassed her and assaulted her with wooden log and knife and caused injuries on her. He further submits that the second petitioner has supported all the activities of the first petitioner. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

5. At the time of arguments, the first petitioner along with his mother/second petitioner and the defacto complainant are present before this Court and they have been enquired by this Court.

6. The Additional Public Prosecutor on instructions submits that the investigation is under progress.



7. Considering the facts and circumstances of the case and the submissions made by counsel and also perused the available materials produced before this Court and also considering the fact that the mentally retarded girl child and the second petitioner is having own house, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions that the defacto complainant and her children shall be permitted to reside in the ground floor of the house and the first petitioner and her mother shall not caused any interference to the defacto complainant and the first petitioner and his family are directed to reside in the first floor of the house for which both parties agreed (A1 and A2 and defacto complainant).

8. 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 XIII Metropolitan Magistrate Court, Egmore, Chennai on condition that the petitioners shall execute separate bonds for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each, 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 and on further condition that:

(a) the defacto complainant and her children shall reside in the ground floor of the house and the first petitioner and her mother/second petitioner shall not cause any interference to the defacto complainant and the petitioner and his family are directed to reside in the first floor of the house and the learned XIII Metropolitan Magistrate, Egmore, Chennai, who confirming the same shall accept the sureties furnished by the petitioners;

(b) the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(c) the 1st petitioner shall report before the respondent police on every Saturday at 10.30 a.m., for a period of four weeks and thereafter as and when required for interrogation and the second petitioner being a senior citizen shall report before the respondent police 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 petitioners in accordance with law as if the conditions has been imposed and the petitioners are 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]; and;

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC;

9. With the above directions, this Criminal Original petition is ordered. Consequently, connected miscellaneous is closed.

-sd/-
10/12/2021

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 METROPOLITAN MAGISTRATE,
NO.XIII, EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION].

3 THE SUB INSPECTOR OF POLICE,
W9-VILLIVAKAM - ALL WOMEN POLICE STATION,
CHENNAI - 600 049.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+2 CC to M/S.D.HARI, Advocate on payment of necessary charges
SR.NO.14557

CRL OP.23266/2021

CRL.MP.13225/2021

Date :10/12/2021

JPA 17/12/2021