



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.12.2021

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

CRL.O.P.No.23438 of 2021

K.Z.Mohammed Gouse

... Petitioner

Versus

State Rep by
The Inspector of Police,
All Women Police Station - Royapettah,
Chennai.
(Crime No.5 of 2021)

... Respondent

Prayer:-Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure seeking to enlarge the petitioner on anticipatory bail in the event of their arrest in Crime No.5 of 2021 pending investigation on the file of the respondent police.

For Petitioner : M/s.Rahman Sheriff

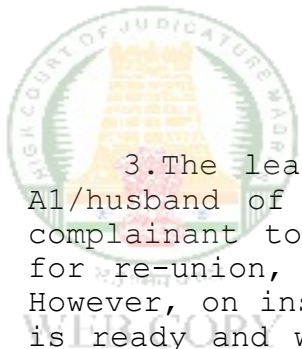
For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

For Intervener : Mr.C.V.Kumar

ORDER

The petitioner, who apprehends arrest for the alleged offences under section 498A and 406 of IPC and Section 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019 in Crime No.5 of 2021 seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is the brother of A1 and the marriage was solemnized between A1 and the defacto complainant in the year 2011 and out of the said wedlock, they were blessed with two children. The brother of the petitioner is not taking care of his family. He deserted his wife and children and settled in Dubai. Due to which, the children are starving for food and other necessities of life and the petitioner is alleged to have harassed the defacto complainant. Hence, the defacto complainant lodged a complaint against the petitioner.



3.The learned counsel appearing for the petitioner submits that A1/husband of the defacto complainant is ready to take the defacto complainant to Dubai and also submits that he has been taking steps for re-union, but the same was refused by the defacto complainant. However, on instructions, he further submits that on his own volition, is ready and willing to deposit an amount of Rs.30,000/- monthly to the account of the defacto complainant as monthly interim maintenance within the first week of every month. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor submits that the brother of the petitioner is not taking care of his family. He deserted his wife and children and settled in Dubai. Due to which, the children are starving for food and other necessities of life and the petitioner is alleged to have harassed the defacto complainant. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. Heard the submissions made by the learned counsel appearing for the Intervener.

6. Considering the fact that the defacto complainant along with her children are residing at her parental home without any maintenance from her husband and there is no proof on the side of the petitioner that A1 has been taking steps for re-union. Also that A1 has pronounced Thalaq and trying to escape from his family without maintaining them.

7. Already, this Court has directed A1 to appear through Video Conference and based on which, he has appeared and also agreed to pay the interim maintenance in the account of the defacto complainant until the dispute gets resolved through the petitioner in a sum of Rs.30,000/- to the account of defacto complainant as monthly interim maintenance, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.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 Metropolitan Magistrate Court No-VIII, Saidapet, 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 Magistrate concerned and on further condition that:

(a) the petitioner is directed to deposit an amount of Rs.30,000/- monthly to SBI Account No.20115202828, Name: Fowsil Hidhaya, IFSC Code: SBIN0040203, Branch: CP Ramasamy Road as monthly interim maintenance within first week of



every month, failing which this anticipatory bail will be canceled and A1 is directed to appear before the trial proceedings regularly for settling the issue amicably;

(b) the petitioner 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 petitioner is directed to appear before the respondent police on the 15th working day of every month at 10.30 a.m until further orders and he is directed to co-operate in the investigation;

(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/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.

-sd/-
17/12/2021

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.VIII, SAIDAPET, CHENNAI.



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

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
CHENNAI

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 MRS. FOWZIL HIDAYAH,
OLD NO.8, NEW NO.
13, EAST ABIRAMAPURAM 1ST STREET,
MYLAPORE, CHENNAI 600004.

6 SBI ACCOUNT NO.20115202828,
NAME: FOWSIL HIDHAYA,
IFSC CODE: SBIN0040203,
BRANCH: CP RAMASAMY ROAD

+2 CC to M/S.RAHMAN SHERIFF Advocate on payment of necessary
charges SR.NO.15055

CRL OP.23438/2021

Date :17/12/2021

JPA 29/12/2021