



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.12.2021

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

CRL.O.P.Nos.25186 of 2021

1. R. Dilip Kumar
2. R.Gajalakshmi
3. J.Ravi
4. R.Pavithra

... Petitioners

Versus

1. The State of Tamil Nadu,
Represented by its
The Inspector of Police,
K8, Arumbakkam Police Station,
Arumbakkam,
Chennai-600 106.
2. The State of Karnataka,
The Inspector of Police,
Basavanagudi Women Police Station,
Jaya Nagar Sub Division,
Bangalore City, Bangalore,
Karnataka.
(Basavanagudi WPS Crime No.242 of 2021)...

Respondents

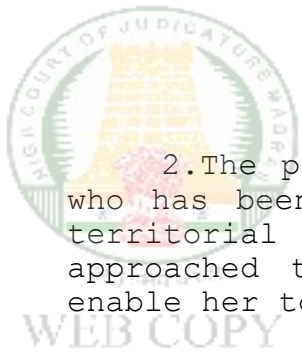
Prayer:-Criminal Original Petition filed under Section 438 of the Code of Criminal Procedure seeking to enlarge the petitioners on interstate anticipatory bail in the event of their arrest in Basavanagudi W.P.S. Crime No.242 of 2021 pending investigation on the file of the 2nd respondent police.

For Petitioners :M/S.D.Percivul Pericles

For Respondent :Mr.A.Gokulakrishnan
Additional Public Prosecutor

Order

The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences under Section 498A, 504 of the Indian Penal Code, 1860, read with Section 3 and 4 of the Dowry Prohibition Act, 1961 in Basavanagudi W.P.S. Crime No.242 of 2021 on the file of the 2nd respondent, seek anticipatory bail.



2.The petitioner filed this petition under Section 438 Cr.P.C., who has been accused of non-bailable offences committed beyond the territorial jurisdiction limit of the State of Tamil Nadu, has approached this Court for interstate Anticipatory Bail, so as to enable her to approach the appropriate Court.

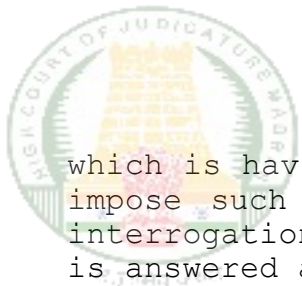
3.The case of the prosecution is that the petitioner/A1 married the defacto complainant in the year 2020 and the defacto complainant's parents had spent a huge amount for the marriage expenses. Due to the Covid-19 pandemic outbreak and since there is restrictions imposed, the said marriage was not performed. While the defacto complainant was residing with her husband at Chennai after her marriage, the petitioners 1 to 4 picked up quarrel with her and demanded dowry from the defacto complainant. Hence, the complaint.

4. The learned counsel for the petitioner would submit that the petitioners apprehend for the offences under Section 498A, 504 of the Indian Penal Code, 1860 r/w Section 3 and 4 of the Dowry Prohibition Act, 1961 on the file of the 2nd respondent. Hence, he is under the apprehension of arrest by the 2nd respondent in Crime No.242 of 2021 through the 1st respondent and he prays for interstate anticipatory bail.

5. Heard the learned Additional Public Prosecutor appearing for the State (R2).

6. The issue as to whether, in respect of the persons, who have been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if their arrest is sought within the jurisdiction of this Court, irrespective of the fact that they are resident of the place over which this Court can grant anticipatory bail under Section 438 Cr.P.C, which came up for consideration before the Division Bench of this Court in the case of S.P.Shanthi Swaroop v. State of Tamil Nadu , rep. By Asst. Commissioner of Police, Central Crime Branch, Madras reported in 1992 L.W.(Cr1).475. After elaborate discussions, decisions and considering the ratio laid down by the Patna High Court in Syed Safrul Hassan v. State has passed the following order:-

"For the foregoing reasons, we hold that the High Court or the Court of Session has got power under Section 438 Cr.P.C. To grant anticipatory bail irrespective of the locale of the Commission of the offence. In other words, in respect of persons who have been accused of a non-bailable offence committed beyond the territorial jurisdiction of the State of Tamil Nadu, if their arrest is sought within the jurisdiction of this Court, irrespective of the fact that they are residents of the place over which this Court can grant anticipatory bail. However, we wish to observe that while granting anticipatory bail, this Court has to restrict the relief for a limited period and to direct the concerned persons to move the Court



which is having jurisdiction over the matter in the meantime and also impose such condition so as to make the petitioners available for interrogation by the concerned police in the meantime. The reference is answered accordingly."

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7. Thereafter, a learned Single Judge of this Court in the case of P.Thangavelu and others v. State, rep. By the Inspector of Police and other reported in 2017 (2) MWN (Cr.) 633 has passed the following orders,

"9.Thus , it is seen that though in the State of Uttar Pradesh, the provisions of Section 438, Cr.P.C., enabling grant of Anticipatory bail has been deleted, still the Courts have power to grant Inter-State Anticipatory Bail, more particularly taking into account the provisions under Article 21 of the Constitution of India. In the light of the above Judgments and discussions, this Court is of the view that Inter-State Anticipatory Bail can be granted to the petitioners for a limited period to enable them seek appropriate Bail Orders from the concerned Court.

10.Accordingly, Interim Anticipatory Bail is granted to the Petitioners herein till 01.08.2016. The Petitioners are directed to be enlarged on Bail in the event of their arrest or on their appearance before the Judicial Magistrate concerned, subject to the following conditions:

(i) Each of the Petitioner shall execute a Personal Bond for a sum of Rs.10,000- (Rupees ten thousand only) with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;

(ii) within the said period, ie., before 01.08.2016, the petitioners shall appear before the concerned Court of Jurisdiction and move for Anticipatory Bail before the said Court.

11. This Court makes it very clear that Interim Anticipatory Bail pertaining to Inter-State disputes cannot be sought as a matter of right and it is purely the discretion of the Court in granting the same, considering the facts, circumstances and also the nature of offences. It is also made clear that this order, on being produced, shall be punctually observed and executed by all concerned."

8. In view of the decisions cited supra, this Court is inclined to grant interim anticipatory bail to the petitioners for a period of four weeks i.e., till 21.01.2022. Accordingly, interim anticipatory bail is granted to the petitioners till 21.01.2022. The petitioners are directed to be enlarged on bail in the event of arrest or on their appearance before the second respondent police and on further condition that:



(i) the Petitioners shall execute Personal Bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, with two sureties, to the satisfaction of the Respondent-Police or the Police Officer, who intends to arrest or to the satisfaction of the Magistrate concerned;

ii) within the said period, i.e., before 21.01.2022 the petitioners shall appear before the concerned Court of Jurisdiction and file an appropriate application for regular bail before the said Court.

-sd/-

21/12/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE INSPECTOR OF POLICE,
K8, ARUMBAKKAM POLICE STATION,
ARUMBAKKA, CHENNAI - 600 106.

2 THE INSPECTOR OF POLICE,
BASAVANAGUDI WOMEN POLICE STATION, JAYA
NAGAR SUB DIVISION, BANGALORE CITY,
BANGALORE, KARNATAKA

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+3 CC to M/S.D.PERCIVUL PERICLES Advocate on payment of
necessary charges Sr.No.15244

CRL OP.25186/2021

Date :21/12/2021

RVR 22/12/2021