



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/04/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.280 of 2021

1. K.Selvam
 2. Anandhi
 3. S.Manikandan
 4. Nandhini
 5. S.Soundarapandi
 6. Malar
 7. Indhurani
 8. Rekha
 9. Rajesh
 10. Ramesh
- ... Petitioners 1 to 4/ Accused 2 to 5
- ... Petitioners 5 & 6/ Accused 9 & 10
- ... Petitioners 7 to 10/Accused 11 to 14

Vs

State Rep.by
The Inspector of Police,
All Women Police Station,
Theni Police Station,
Theni District.
Crime No.23/2020.

... Respondent/Complainant

For Petitioners : M/s.Veera Kathiravan
for M/s.Veera Associates, Advocate.

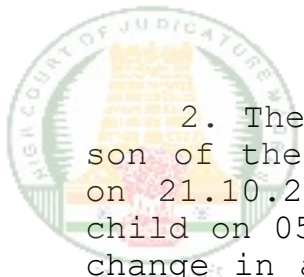
For Respondent : Mr.M.Ganesan,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime No.23 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A2 to A5, A9 and A10 who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 498(A), 406 and 109 of IPC seek anticipatory bail.



2. The case of the prosecution is that the marriage between the son of the first petitioner and the defacto complainant took place on 21.10.2010 and out of the wedlock they were blessed with the child on 05.07.2013. After the birth of the child, there is a complete change in attitude and mentality of the defacto complainant towards the petitioners and started harassing her husband to have a separate house due to which the son of the first petitioner took a separate house and started living with the defacto complainant. In the meantime, the defacto complainant gave birth to the second child. Thereafter, the defacto complainant left the home and on 14.03.2019, the defacto complainant was traced and produced before the respondent police. A mutual agreement for divorce was also entered on 16.05.2019 and the spouses were living separately and in order to legalise the said divorce. The first accused/husband has filed a petition for divorce before the Sub Court, Theni in HMOP No. 117 of 2019. Hence the complaint.

3. The learned Senior Counsel for the petitioners would submit that the petitioners are innocent and a false case has been foisted against the petitioners. He would also submit that the petitioners have filed a typed set of papers containing 11 documents.

4. It is seen from document No.1 that the First Information Report in Crime No. 199 of 2019 was given by the mother of the defacto complainant alleging that jewels were missing. On 14.03.2019, another complaint was registered in Crime No. 212 of 2019 that complaint was given by the father of the defacto complainant alleging that her daughter is missing from home. It is seen from the report given by the police in page 9 of the typed set that after picking quarrel with the family members, she travelled to Thiruvannamalai, Chidambaram and thereafter she stayed in a lodge at Madurai. She was found by the police and when she was enquired, she was not willing to go with her parents, hence she was sent to home. Subsequently, an agreement was entered for dissolution of marriage of the defacto complainant with Vijayakumar with certain conditions. This Court opines that the validity of the document is to be tested by the competent Court and this document is not a legally enforceable document. Subsequently, the defacto complainant said to have issued legal notice to the first accused alleging various offences. The first accused filed HMOP No. 117 of 2019 on the file of the Sub Court, Theni against the defacto complainant seeking divorce on the ground of cruelty and desertion and it is pending. Then the police has sent notice on the complaint given by the defacto complainant for enquiry and the first accused appeared before the police for enquiry. Thereafter, he has filed a petition in Crl.O.P(MD) No. 10999 of 2020 seeking anticipatory bail when the case was pending for petition enquiry and no First Information Report was registered. This Court was pleased to grant anticipatory bail to the petitioners. Thereafter, the present complaint has been filed by the defacto complainant with the same set of allegations.



5. The learned Government Advocate(Crl.Side) would submit that it is a matrimonial dispute and the investigation is still pending.

6. Taking into consideration all the facts and circumstances of the case and also taking note of the fact that the proceedings between the parties are going on for a long period and it is a case of matrimonial dispute and the petitioners herein are only father and brother-in-law of the first accused and taking note of the fact that the petitioners were granted anticipatory bail during petition enquiry, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Theni on condition that the petitioners shall execute a bond 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned 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 1,3,5,9 and 10th petitioners shall report respondent police on every Monday 10.30 am., until further orders and the petitioners 2,4,6,7,8th petitioners shall report before the respondent police as and when required for interrogation.

(c)the petitioners shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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;

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

sd/-

20/04/2021

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE JUDICIAL MAGISTRATE, THENI.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THENI POLICE STATION,
THENI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-3278[I] dated 21/04/2021)

ORDER

IN

CRL OP(MD) No.280 of 2021

Date :20/04/2021

AAV

MS/VR/SAR-3/28.04.2021/4P.6C