



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 08/01/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.256 of 2021

K.Kathiresan

... Petitioner/Sole Accused

Vs

The State rep. by,
The Inspector of Police,
Pallathur Police Station,
Sivagangai District.
Cr.No. 213 of 2020.

... Respondent/Complainant

For Petitioner : Mr.M.Solaisamy,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

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

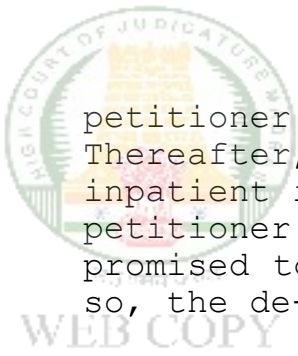
PRAYER :-

For Anticipatory Bail in Crime No.213 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 323, 379(N.H) of IPC and Section 4 of Tamil Nadu Prohibition of Woman from Harassment Act, seeks anticipatory bail.

2.The de-facto complainant Gomathi had alleged a complaint on 26.12.2020 stating that 25 years prior, she was married to one Naganathan and the said Naganathan left her 10 years later. Thereafter, she had been living alone and she is having a fruit shop. Five years prior, the petitioner herein visited her shop regularly and thereby, they have developed friendship and later, they were in relationship. The petitioner became a tenant under the de-facto complainant and was residing in the ground floor. On 19.11.2019, the de-facto complainant had gone to her aunt's house, when she returned back along with her son, the petitioner broke open the bureau and taken away 15 sovereigns of jewels and Rs.5,00,000/- in cash and also the sale deed in the name of her son. When the same was questioned by the de-facto complainant and her son, the



petitioner attacked the de-facto complainant and caused injuries. Thereafter, the de-facto complainant had taken treatment as inpatient in the Government Hospital, Karaikudi and she informed the petitioner's mother about the same. The petitioner's mother promised to return back the jewels and cash. Since it was not done so, the de-facto complaint has lodged a complaint on 26.12.2020.

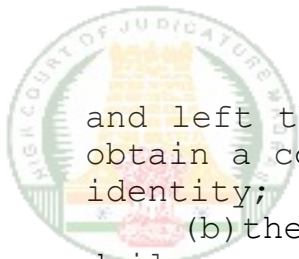
3.The contention of the petitioner is that the petitioner was residing as a tenant under the de-facto complainant in the ground floor as a tenant, he had entered into the tenancy agreement and had paid a lease amount of Rs.5,00,000/- for the same. The said Five Lakhs is still with the de-facto complainant. He further submitted that they were in friendly terms and during that time, the petitioner used to pay lot of money to the de-facto complainant for developing a business and also for a purchase of property, she had collected amount of Rs.50,00,000/- and promised to purchase the property in the name of the petitioner, instead she had purchased in the name of her son Senthilvel, due to which, there was misunderstanding between them, which developed into a fight. The petitioner has undergone heart surgery recently. On 21.11.2020 at about 05.00 p.m., when the petitioner reached his portion, he saw that the de-facto complainant and her son-Senthilvel had broke open the bureau and removed the documents and valuables things from the bureau and when the same was questioned, the de-facto complainant and her son had assaulted the petitioner and demanded more money. Thereafter, the petitioner had gone to the respondent police, since the Inspector was not available, the complaint was not received. Thereafter, the petitioner developed chest pain and hence, on 22.11.2020, he had gone to his native place. The petitioner's house was also locked by the de-facto complainant. In this regard, the petitioner had sent a representation to the Deputy Superintendent of Police on 22.11.2020.

4.The learned Government Advocate (Crl. Side) appearing for the respondent police states that the investigation is pending and hence, he opposed to grant anticipatory bail to the petitioner.

5.Considering the rival submissions, 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 his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate Court, Karaikudi, 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

<https://hcservices.courts.mca.gov.in/hcservices/> 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 petitioner shall report before the respondent police daily as and when required for interrogation.

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

(d)the petitioner 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 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;

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

sd/-

08/01/2021

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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, KARAIKUDI.

2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.

3.THE INSPECTOR OF POLICE,
PALLATHUR POLICE STATION, SIVAGANGAI DISTRICT.

4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.256 of 2021

Date :08/01/2021

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