



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/01/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.847 of 2021

1.Rathikumari
2.Vialat

... Petitioners/Accused No.2 & 6

Vs

State Rep. by
The Inspector of Police,
All Women Police Station,
Aruppukottai,
Virudhunagar District,
Crime No.10/2019.

... Respondent/Complainant

For Petitioner : Mr.Vadivel.A,
Advocate.

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

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

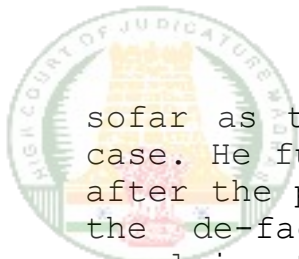
PRAYER :- For Anticipatory Bail in Crime No.10/2019 on the file of the respondent Police

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 294(b), 448, 494 and 506(i) of IPC, seek anticipatory bail.

2.Heard both sides.

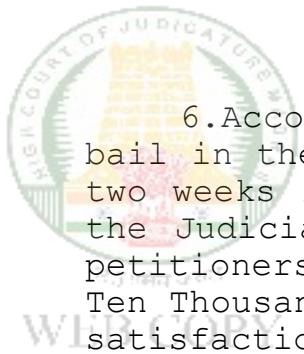
3.The learned counsel appearing for the petitioners submitted that based on the complaint given by the de-facto complainant, a case was registered against her husband (A-1) and her mother-in-law in Crime No.5 of 2014, for the offences punishable under Sections 498(A), 406 r/w 4 of Dowry Prohibition Act and based on the said First Information Report, charge sheet was filed and the case was taken on file in C.C.No.237 of 2014, on the file of the learned Judicial Magistrate, Aruppukottai and after full trial, A-1 was convicted and sentenced to undergo 18 months rigorous imprisonment and a fine of Rs.500/- was also imposed. He further submitted that



sofar as the mother-in-law is concerned she was acquitted in that case. He further submitted that as per the First Information Report, after the previous case was ended in acquittal, the mother-in-law of the de-facto complainant went to the house of the de-facto complainant on 13.03.2019 and informed her that her son (A-1) already got the second marriage and through the said marriage he got a child and also criminally intimidated her. He further submitted that since already a criminal case was filed and after disposal of the said case, it is highly unbelievable that the mother-in-law of the de-facto complainant went into the house of the de-facto complainant and criminally intimidated her and also informed that her son (A-1) got second marriage. He further submitted that there is no material to show that the first petitioner married A-1 and for the said marriage, the second petitioner has helped. Therefore, he prayed to grant anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl. side) appearing for the respondent Police submitted that on 13.03.2019, the mother-in-law of the de-facto complainant came to the house of the de-facto complainant and informed that her son (A-1) got second marriage with the first petitioner herein and also criminally intimidated her and hence, the complaint was lodged and based on the said First Information Report a case was registered in Crime No.10 of 2019 for the offences punishable under Sections 294(b), 448, 494 and 506(i) of IPC. He further submitted that the petitioner got a child through A-1 and the birth of the said child also has been registered and in the birth certificate, it is clearly stated that A-1 is the father of the said child and the first petitioner is the mother of the said child. He further submitted that in the Voters Card also it is specifically stated that the husband of the first petitioner is A-1 and this document would clearly show that the first petitioner got married A-1 during subsistence of the first marriage of A-1 with the de-facto complainant and therefore, the first petitioner committed offence under Section 494 r/w 109 of IPC and hence, he strongly opposed this petition.

5.This is the second anticipatory bail petition. Already one criminal case was filed against A-1 and his mother (2nd petitioner herein) for the offences punishable under Sections 498 A, 406 r/w 4 of Dowry Prohibition Act and in that case, A-1 was convicted on 08.02.2019 and sentenced to undergo for a period of 18 months rigorous imprisonment and the mother (2nd petitioner) was acquitted and under the said circumstances it is not believable that after the disposal of the said criminal case, the mother-in-law of the de-facto complainant voluntarily went to the house of the de-facto complainant and informed that her son (A-1) got married with the first petitioner herein. Further, the de-facto complainant has not produced any material to show on which date A-1 got married the first petitioner, what kind of marriage they have performed. In view of the above, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.



6. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of two weeks from the date of receipt of a copy of this order, before the Judicial Magistrate Court, Aruppukottai, 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 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/petitioners thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
22/01/2021

/ TRUE COPY /

/ /2021

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,
ARUPPUKOTTAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VILLUPUTHUR.

<https://hcservices.mca.gov.in>



3 THE INSPECTOR OF POLICE,
WOMEN POLICE STATION,
ARUPPUKOTTAI, VIRUDHUNAGAR DISTRICT.

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

+1 CC to M/s.A.VADIVEL, Advocate (SR-429[I] dated 25/01/2021)

ORDER
IN
CRL OP(MD) No.847 of 2021
Date :22/01/2021

vsg
JM/VR/SAR II/03.02.2021/4P/6C