



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 08/02/2021

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.1302 of 2021

1. S.Kabil,

2. S.Muralidharan,

... Petitioners/1st & 2nd Accused

Vs

The Inspector of Police,
All Women's Police Station,
Karur, Karur District.
(Crime No.1 of 2021).

... Respondent/Complainant

Arockia Sugi

... Intervening Petitioner/
Defacto Complainant
in Cr1.MP(MD).No.818/2021
in Cr1.OP(MD).No.1302/2021

For Petitioner : M/s.Gokulraj.S,
Advocate.

For Respondent : Mr.M.V.Chandrasekaran,
Government Advocate (Cr1.Side)

for Intervenor : Mr.G.Thalaimutharasu, Advocate

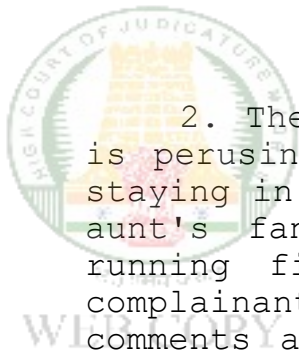
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

For Anticipatory Bail in Crime No.1 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners/A1 and A2, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294 (b), 326(B), 354(A), 506(ii) of IPC r/w.Section 4 of TNPHW Act seek anticipatory bail.



2. The case of the prosecution is that the defacto complainant is perusing her studies in PC Polytechnic College, Namakkal and staying in her aunt's place. During free time she used to visit the aunt's fancy store and work there. The petitioners father was running fish stall opposite to their shop. When the defacto complainant was in the shop the petitioner used to pass lewd comments and show sign causing annoyance. The petitioners and his friends also joined him and continuously causing disturbance to the defacto complainant which cause physiological disturbance and she was unable concentrate on her studies. On 25.12.2020 when the defacto complainant was proceeding in a two wheeler along with her father the petitioner had gone there and used abusive and derogatory words against the defacto complainant and her father. Thereafter on 28.12.2020 when the defacto complainant was proceeding in an auto to her house following the auto he overtake the auto and was obstructing the auto deliberately. Since the petitioner along with his friends caused necessary adverse comments the defacto complainant avoided the same and thereafter unable to bear the torture she had lodged the present complaint.

3. The learned counsel for the petitioners would submit that the first petitioner is studying B.A.English literature at Kongu College, Karur and the allegation against the petitioner is totally false. The first petitioner's mother is running a fish shop and briyani stall at Rayanoor, karur and near that place the defacto complainant's aunt is running a fancy store and briyani stall namely 'Sugi Briyani Centre'. The first petitioner's mother is running a briyani stall for the past 17 years and the defacto complainant's aunt has opened the briyani stall which was objected by the first petitioner and his family members, due to which there was some dispute, for which a case has also been registered before the Thanthonimalai Police Station, Karur, in which CSR was assigned. As a counter blast the present complaint has been given against the petitioners, hence they seek anticipatory bail.

4. The learned counsel for the defacto complainant/ intervenor would submit that the defacto complainant aunt is running a briyani stall which was not disputed. There is some dispute with regard to running of business. The first petitioner along with his friends had been stalking the defacto complainant and passing lewd comments and the same was also objected, despite the same the petitioners continued their activities. The defacto complainant also produced the video regarding the petitioners stalking her while she was going in an auto.

5. The learned Government Advocate(Crl.Side) would submit that the petitioners along with other passed lewd comments against the defacto complainant and caused annoyance to the defacto complainant. He would also submit that the petitioner's act cannot be taken lightly. The life and liberty of the young girl is under threat and



to continue her studies, hence he opposed to grant anticipatory bail to the petitioners.

6. The learned counsel appearing for the first petitioner filed a counter, the relevant portion which is extracted here under:

"4. I respectfully submit that I am to file this affidavit without prejudice to the present case that I will never indulge in such activities as alleged by the defacto complainant in the future and also I assure that I will not disturb the defacto complainant one Arockia Sugi in future.

5. I further submit that my affidavit may be treated as the part and parcel of the anticipatory bail petition. Unless this Honourable Court accepts the affidavit filed by me and enlarge me on anticipatory bail, I would be put to irreparable loss and much hardship"

7. Taking into consideration the facts and circumstances of the case and also taking into consideration the affidavit filed by the first petitioner, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. 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 No.I, Karur 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 on every Saturday and Sunday at 10.30 a.m., for a period of four weeks.

(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.

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/ /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 NO.1,
KARUR.
- 2 DO THRO
THE CHIEF JUDICIAL MAGISTRATE,
KARUR.
- 3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, KARUR,
KARUR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.GOKULRAJ.S Advocate SR.No.781

ORDER
IN
CRL OP(MD) No.1302 of 2021
Date : 08/02/2021