



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19/03/2021

WEB COPY

PRESENT

The Hon'ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.3334 of 2021

Paul Rajan

... Petitioner/Accused No.1

Vs

The State rep. by
The Inspector of Police,
All Women Police Station,
Colachel, Kanyakumari District
Crime No.44/2019.

... Respondent/Complainant

For Petitioner : Mr.Mohideen Basha.N. Advocate.

For Respondent : Mr.R.Srinivasan,
Government Advocate (Criminal Side)

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

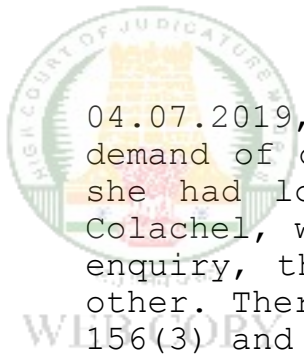
PRAYER :-

For Anticipatory Bail in Crime no. 44 of 2019 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A1, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 498(A), 406 and 506(i) of IPC r/w Sections 4 and 6 of Dowry Prohibition Act, 1961, in Crime No.44 of 2019 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is the husband of the defacto complainant. The marriage between the petitioner and the defacto complainant was solemnized on 15.03.2017. Thereafter, the petitioner and his family were constantly demanding dowry and causing harassment to the defacto complainant. In the meanwhile, on 18.12.2017, the defacto complainant begot a male child and on 28.03.2018, she was chased out from her matrimonial home. Therefore, the defcto complainant gave a complaint before the Colachel All Women Police Station on 10.05.2018 and no action was taken. In the meanwhile, the petitioner has also filed a petition in H.M.O.P.No.14 of 2019 before the Sub Court, Eraniel. The mediation was conducted on 14.06.2019 and thereafter, she was taken back to the matrimonial home and hence, the case was closed. After that on



04.07.2019, the petitioner and his family members again making demand of dowry and also subjected to cruelty. Again on 09.07.2019, she had lodged a complaint before the All Women Police Station, Colachel, when the petitioner and his family members were called for enquiry, they failed to appear for enquiry by giving one reason or other. Thereafter, the petitioner has filed a petition under Section 156(3) and the same was allowed. Based on the direction given by the Court below, the present complaint came to be registered.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.

4. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that A2 to A8 were already granted anticipatory bail in Cr.M.P.No.5797 of 2019, dated 11.12.2019. Hence, he seek anticipatory bail.

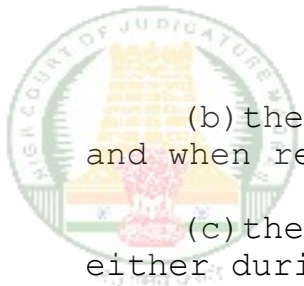
5. The learned Government Advocate (Criminal Side), appearing for the respondent police submitted that the petitioner and the defacto complainant are the husband and wife. After the marriage, the petitioner and his family members have demanded dowry from the defacto complainant and chased out her from the matrimonial home.

6. From the mediation report, it is seen that the defacto complainant is continuously absent and mediation could not be conducted.

7. Considering the facts and circumstances of the case and also considering the fact that A2 to A8 were already granted anticipatory bail by the Court below, except dowry demand there is no other serious allegation against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Eraniel, 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:

(a) the petitioner 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 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/petitioner thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

19/03/2021

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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, ERANIEL.
2. -DO- THROUGH: THE CHIEF JUDICIAL MAGISTRATE,
KANNIYAKUMARI DISTRICT.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
COLACHEL, KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL OP(MD) No.3334 of 2021
Date :19/03/2021

VSG

SRS/SMA/25.03.2021/3P/5C

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