



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/04/2021

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PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.5745 of 2021

1. Iyyappan
2. Sivasubramanian ... Petitioners/Accused 1& 7

Vs

The State rep. by
The Inspector of Police,
All Women Police Station,
Nagercoil, Kanyakumari District
(Crime No. 13/2021) ... Respondent/Complainant

For Petitioners : Mr.Christenson Jugunu.D.,
Advocate.

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

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

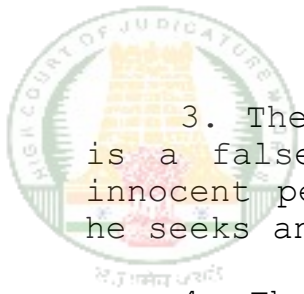
PRAYER :-

For Anticipatory Bail in Crime No. 13 of 2021 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 offences punishable under Sections 294(b), 498(A), 406 and 506(ii) I.P.C. and Section 4 of Dowry Prohibition Act, in Crime No.13 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the first petitioner/A1 is the husband and the second petitioner/A7 is the father-in-law of the defacto complainant. Due to family dispute, the petitioners herein along with other accused said to have abused the defacto complainant and also threatened her with dire consequences.



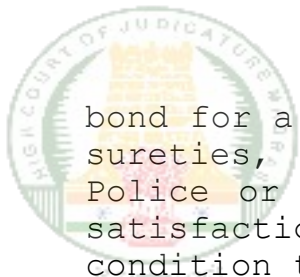
3. The learned counsel for the petitioners submitted that this is a false case and exaggerated offence and the petitioners are innocent persons. The second petitioner is an aged person. Hence, he seeks anticipatory bail.

4. The learned Government Advocate (Crl. Side), appearing for the respondent police submitted that the case in Crime No.13 of 2021 was registered on 24.03.2021 and the investigation is pending.

5. It is seen from the submissions made that the marriage between the first petitioner and the defacto complainant had taken place on 28.11.1999. Due to the wedlock, a girl baby was born on 13.07.2008. The defacto complainant was provided 40 sovereigns of gold jewels at the time of marriage. The first petitioner received 40 sovereigns of gold jewels from the defacto complainant and sold it along with the accused 3 to 5, to buy three cents of land in the name of the first petitioner. Subsequently, on the basis of the salary certificate of the defacto complainant, a loan of Rs.36,00,000/- (Rupees Thirty Six Lakhs only) and Rs.7,00,000/- (Rupees Seven Lakhs only) from Educational Department's Co-operative Society and totally, a sum of Rs.43,00,000/- (Rupees Forty Three Lakhs only) was secured for construction work. Later, the first petitioner / A1 had developed illegal intimacy with second accused. When it was brought to the notice of the other accused, they scolded the defacto complainant and threatened that they would arrange for the marriage between the first and second accused. When she came to know that the first accused was in the house of the accused Nos.4 and 6, on 24.11.2020, at about 9.00 a.m., and asked her husband about her plight. The Accused Nos.1, 7 and 8, in response, scolded her and criminally, intimidated her.

6. Considering the facts and circumstance of the case, where it is alleged that the first petitioner along with accused 3 to 5 got 40 sovereigns of gold jewels of the defacto complainant and sold it to buy three cents of land and the fact that loan of Rs.43,00,000/- (Rupees Forty Three Lakhs only) was obtained using the salary certificate of the defacto complainant and the fact that the first accused has not paid the loan due; the first accused has illicit intimacy with the second accused, this Court is not inclined to grant anticipatory bail to the first petitioner. However, considering the age of the second petitioner and that he has only a minimal role in abusing the defacto complainant, this Court is inclined to grant anticipatory bail to the second petitioner with certain conditions.

7. Accordingly, this Criminal Original Petition is partly allowed and the second petitioner alone 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 Judicial Magistrate /Additional Mahila Court, Nagercoil, Kanyakumari District, in addition that the second 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:

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(a) the second 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 second petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

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

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

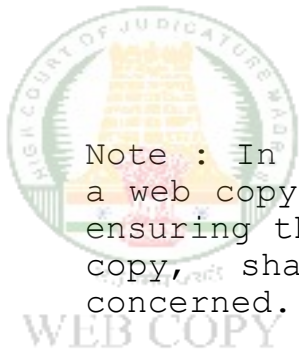
(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

In so far as the first petitioner / A1 is concerned, this Criminal Original Petition is dismissed.

sd/-
22/04/2021

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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,
ADDITIONAL MAHILA COURT, NAGERCOIL,
KANNIYAKUMARI DISTRICT.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANNIYAKUMARI AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NAGERCOIL, KANNIYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.RAMAKRISHNAN, Advocate (SR-3337[I] dated
23/04/2021)

ORDER
IN
CRL OP(MD) No.5745 of 2021
Date :22/04/2021

AMS/PN/SAR-2/28/04/2021/4P/6C