



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

Date : 27/04/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.5931 of 2021

1. Selvam
2. Saroja ... Petitioners/Accused

Vs

State Rep.by
The Inspector of Police,
Othakadai Police Station,
Madurai District.
Crime No.205 of 2021. ... Respondent/Complainant

For Petitioners: Mr.V.Vijayasethupathy,
Advocate.

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

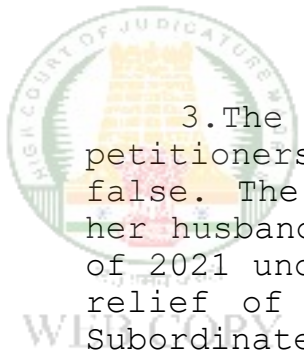
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime No.205 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under sections 498A, 342, 323, 506(ii) I.P.C and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 in Crime No.205 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the marriage between the defacto complainant and the first accused was taken place on 12.09.2019. Thereafter, the defacto complainant was living with her husband house. On 09.04.2021, all the three accused in this case have ill-treated the defacto complainant and locked her in a room in upstairs even without providing water, therefore, the defacto complainant had contacted the police through emergency service call No.100. Again on 12.04.2021, the accused persons physically harassed the defacto complainant and also assaulted her to commit suicide. Again she has given intimation to the police through emergency service No.100. Therefore, this case came to be registered.



3.The learned counsel for the petitioners submitted that the petitioners are innocents and the allegations in the FIR are all false. The defacto complainant only committed cruelty, therefore, her husband, the first accused in this case has filed H.M.O.P.No.98 of 2021 under Section 13(i) (a) of the Hindu Marriage Act seeking the relief of divorce on the ground of cruelty before the Principal Subordinate Court, Madurai on 15.04.2021. Since filing of the above petition, a false complaint has been given by the defacto complainant against the petitioners herein. Therefore, he seeks anticipatory bail to the petitioners.

4.The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that investigation is pending.

5.Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) appearing for the respondent police.

6.Reading of the FIR shows that when the defacto complainant was locked inside the room on 09.04.2021, she contacted the police through emergency call No.100. It is not stated anything about whether there was any response from the police on 10.04.2021. Again she stated that she contacted the police through Call No.100 on 19.04.2021 but there is no reference about the response of the police. Therefore, the allegations against the petitioners are not free from reasonable doubt.

7.Considering the fact that it is a matrimonial dispute, the fact that the first accused was arrested and released on bail and the fact that the petitioners herein are only parents of the first accused, this Court is inclined to grant anticipatory bail to the petitioners.

8.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate, Melur, Madurai District, within a period of fifteen days from the date of receipt of a copy of this order, on their executing 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 said Magistrate 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 first 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 and the second petitioner 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.

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[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]**.

[f] If the accused/petitioners thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
27/04/2021

/ 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, MELUR,
MADURAI DISTRICT.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
OTHAKADAI POLICE STATION, MADURAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL OP(MD) No.5931 of 2021
Date :27/04/2021

MSA
MS/PN/SAR-3/11.05.2021/3P.5C

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