



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

Date : 28/06/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.8059 of 2021

1. Raja Mohammed
2. Mohammed Ibrahim
3. Pasira Begam

... Petitioners/Accused Nos.1 to 3

Vs

State Rep.by
The Inspector of Police,
All Women Police Station,
Theni District.
Crime No.7 of 2021.

... Respondent/Complainant

For Petitioners : Mr.S.Sundarapandian,
Advocate.

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

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

PRAYER :-For Anticipatory Bail in Crime No.7 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 alleged offences punishable under Sections 498-A, 323, 406, 506 (ii) IPC and Section 4 of Women Harassment Act, in Crime No.7 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the marriage between the defacto complainant and the first accused had taken place four years prior to giving the complaint. Subsequent to the marriage, she was forced to sign a document for alleged "Thalak" said to have given by the first accused. The defacto complainant was made to abort fetus two times and she was beaten and criminally intimidated. Therefore, this case came to be registered.

3.The learned counsel for the petitioners submitted that the petitioners are innocent persons and they did not commit any offence as alleged by the prosecution. In fact, immediately after the marriage, there was a divorce by "Muthalak" between the defacto



complainant and the first accused. In this regard, an agreement has also been entered into between the defacto complainant and the first accused, on 19.02.2018. He has also filed a copy of the agreement. He further submitted that only to harass the petitioners, the defacto complainant had given this complaint.

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4.The learned Government Advocate (criminal side) opposed this petition on the ground that the investigation is not completed.

5.As per the allegation made in the First Information Report and the agreement dated 19.02.2018, it is made clear that marriage between the defacto complainant and the first accused, got separated by "Triple Talak" by the first accused. There is no details like the date of occurrence and place in the First Information Report with regard to the alleged physical, mental harassment, forcible abortion.

6.In the light of the submission made by the learned counsel for the petitioners that the marriage between the defacto complainant and the first accused was dissolved by pronouncing "Triple Talak", that there is no specific date, time and place mentioned with regard to the physical and mental ill-treatment in the First Information Report, this Court is inclined to grant anticipatory bail to the petitioners.

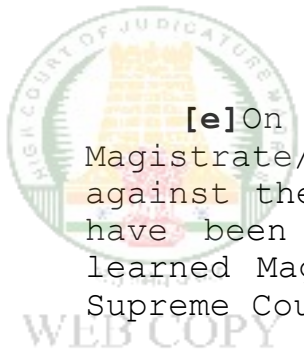
7.Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Uthamapalayam, Theni District, on condition that the petitioners shall 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 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 daily at 10.30 am.,until further orders.

[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]**.

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

sd/-

28/06/2021

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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,
UTHAMAPALAYAM, THENI DISTRICT.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THENI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.8059 of 2021

Date : 28/06/2021

LS

MS/MNR/SAR-5/01.07.2021/3P.5C