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

Reserved on	Pronounced on
05.07.2021	08.07.2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.8206 of 2021

1. Sundaram @ Sundaram Chettiar
2. Suganya
3. Govindarajan
4. Rajathi

... Petitioners/Accused Nos.1 to 4

Vs

State rep.by
The Inspector of Police,
Singampunari Police Station,
Sivagangai District.
In Crime No.169 of 2021.

... Respondent/Complainant

Haritha Raja

... Petitioner/Intervener
in CRL MP(MD)No.4374 of 2021
in CRL OP(MD)No.8206 of 2021

For Petitioners : Mr.R.Shankar Ganesh Advocate for
M/s.Dictum Law Firm

For Respondent : Mr.E.Antony Sahaya Prabhakar,
Additional Public Prosecutor

For Intervenor : Mr.K.K.Ramakrishnan, Advocate

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

PRAYER :- For Anticipatory Bail in Crime No.169 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A.1 to A.4 apprehending arrest at the hands of the respondent police for the alleged offence punishable under sections 324, 341, 354, 380, 420, 448 and 506(ii) I.P.C., in Cr.No.169 of 2021 on the file of the respondent police, seek anticipatory bail.

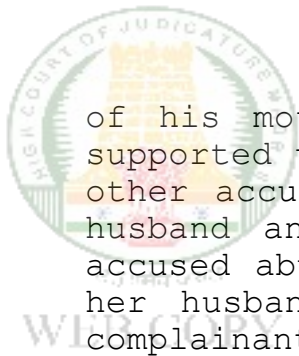
2. The case of the prosecution is that the defacto complainant married one Raja on 25.10.2015. Her elder brother-in-law Sundaram is the accused. Govindarajan is her father-in-law, who is the



third accused in this case. The second accused Suganya is the wife of the first accused. The fourth accused is the mother of the second accused. The defacto complainant was provided with 25 tholas of Gold and 5 Kgs of Silver apart from other dowry during her marriage. In connection with the marriage and in the presence of all the relatives, her father-in-law declared that he had executed a registered settlement deed, dated 17.10.2014 gifting the building bearing Old Door No.5-1-124-A, New Door No.9-1-75. Sundaram is working as a Government Doctor in Tiruchy. Her mother-in-law got afflicted with liver disease. Nobody came forward to help her mother-in-law. Her husband Raja came forward and donated his liver at the risk of his health and life. However, her mother-in-law expired. Her brother-in-law did not pay any attention to his parents. Fed with the attitude of her brother-in-law, her father-in-law executed a Will in 2018 bequeathing his entire properties in favour of her husband. Her brother-in-law got transfer to Singampunari and occupied her in-laws' house. The defacto complainant was at Hyderabad for attending Law examinations during that period. On her return, she found that 25 tholas of gold and 5 kgs of silver were stolen and luggage was damaged by her brother-in-law and his wife. When she tried to give police complaint, her father-in-law prevented saying that the reputation of the family will be spoiled. As per the suggestion of her father-in-law, the defacto complainant started to live in Sundaram Nagar. When she demanded another bed room, it was refused at the instigation of her brother-in-law. Her brother-in-law influenced and poisoned her father-in-law in connivance with other accused. He made false allegation by stating that the defacto complainant committed theft of certain things from Sundar Nagar house. On 23.05.2021 at about 02.30p.m., her brother-in-law abused her in filthy language and tried to kill her husband by throwing big stone on his head and caused bleeding injuries to her husband. When she tried to intervene, she was also beaten and her modesty was outraged. When they tried to kill her husband, her father-in-law encouraged other accused. She was abused. She had gone to Government hospital for treatment and referred to Singampunari Government hospital. Due to COVID-19 pandemic situation, she could not go to Sivagangai. The accused had committed the offences under Sections 324, 341, 354, 380, 420, 448 and 506(ii) I.P.C.. Therefore, this case came to be registered.

3. The learned Counsel for the petitioners submitted that the petitioners are relatives and they have been falsely implicated in this case. There is a property dispute between the parties and using that motive, this case is given with exaggerated and false details. Therefore, he seeks anticipatory bail to the petitioners.

4. The learned Counsel for the intervenor opposes this petition on the ground that the defacto complainant's husband was the one, who had taken care of his mother by donating his liver at the risk of his life. However, now it is alleged that he has not taken care



of his mother. Earlier, the defacto complainant's father-in-law supported the defacto complainant and her husband. Now, he supports other accused and tried to deprive the defacto complainant and her husband and their right over the property. Not only that, the accused abused and physically assaulted the defacto complainant and her husband. If they released on anticipatory bail, the defacto complainant and her husband would not get justice. Therefore, the learned Counsel for the intervenor seeks dismissal of this petition. He placed in reliance of the judgment in ***State represented by the CBI Vs. Anil Sharma***, reported in ***(1997)7 Supreme Court Cases, 187*** and in ***P.Chidambaram Vs. Directorate of Enforcement*** reported in ***(2019)9 Supreme Court Cases 24***, for the proposition that the custodial interrogation is necessary.

5. The learned Additional Public Prosecutor appearing for the State opposes this petition on the ground that the investigation in this case is not yet completed.

6. Heard the learned Counsel for the petitioners, the learned Counsel for the intervenor and the learned Additional Public Prosecutor appearing for the State and perused the materials placed on record.

7. As indicated above, the allegations made in the F.I.R., show that there is property dispute between the defacto complainant, her husband on the one hand and the accused on the other hand, especially A.1 to A.3. Originally, it appears that settlement deed dated 17.10.2014 was executed by the third accused. In the F.I.R., though it is stated that the third accused had executed a settlement deed, it is not specially stated for whom, this settlement deed was executed. There is one another allegation in the F.I.R., that the third accused had executed a Will in respect of the defacto complainant's husband. When the other heir viz., A.1 is alive, the execution of Will in respect of entire properties of the third accused is in favour of one heir is unusual.

8. Be that as it may, *prima facie* it appears that the reason for dispute between the parties is the properties of the third accused. A reading of the F.I.R., shows that it lacks material details. The narration of facts and events are factually and grammatically not correct. For instance, it is stated in the F.I.R., that " when I went to Hyderabad for attending to Law examinations along with my husband in November 2021, my brother-in-law got himself transferred to Singampunari and entered and occupied my in-laws house". We are now in July 2021. November 2021 is yet to come. Therefore, the reference as November 2021 in this sentence is patently not correct.

9. In the next sentence it was stated that "when she returned from Hyderabad, she found that her entire luggage and valuable



jewels weighing 25 tholas of gold, 5kg of silver were stolen and damaged and the value of the damaged goods is two lakhs. It was done by her brother-in-law and his wife;" There is no specific mention about when it had happened and if it really happened, why no police complaint was given immediately. Though an explanation is given that her father-in-law prevented her from giving complaint for the reason that the family's reputation is at stake. This Court is of the considered view that if 25 tholas of gold and 5kg of silver were stolen, nobody would remain silent without giving complaint to the police. Therefore, the very claim that 25 tholas of gold and 5 kgs of silver were stolen seems doubtful.

10. Then it is alleged that "my husband and his wife were also accompanied by some other persons and they came to the scene of offence intentionally and deliberately to kill us they cruelly beat my husband with their chappals". This sentence makes no sense. Probably it should have been the third accused and her husband. But it is wrongly stated as my husband and his wife. Thus it is seen that this complaint has been given with exaggerated details, not supported by any material evidence. The property dispute, the claim of execution of settlement deed, cancellation of settlement deed, execution of Will by the third accused are the matters for trial and in anticipatory application, the above said disputes cannot be gone into deep. The question to be decided in this petition is as to whether the custodial interrogation of the petitioners is necessary or not. As already stated, the allegation that the accused 1 and 2 had stolen jewels and silver articles of the defacto complainant is doubtful. These allegations to be proved during the course of trial. The claim and counter claim have to be proved by oral and documentary evidence. The judgments relied on by the learned Counsel for the intervenor relate to corruption cases. In the facts and circumstances of these cases, the need for custodial interrogation was highlighted. In the case before hand, this case is registered in connection with property dispute between family members. Therefore, this Court is of the considered view that the custodial interrogation of the petitioners is not necessary. In this view of the matter, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

11. 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, Thiruppathur, Sivagangai 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 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 1 and 3 shall report before the respondent police daily at 06.30 pm., until further orders; and the petitioners 2 and 4 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;

(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.

sd/-

08/07/2021

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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,
THIRUPPATHUR, SIVAGANGAI DISTRICT.
- 2.-DO- THRO' THE CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI DISTRICT.
3. THE INSPECTOR OF POLICE,
SINGAMPUNARI POLICE STATION, SIVAGANGAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.DICTUM LAW FIRM, Advocate (SR-4440[I] dated 09/07/2021)

ORDER IN

CRL OP(MD) No.8206 of 2021

Date : 08/07/2021

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<https://hcservices.sar-11/12.07.2021/5P/6C>