



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

Date : 06/07/2021

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PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.8859 of 2021

1. Vinoth Kumar
2. Kaliyaperumal
3. Lakshmi

... Petitioners/Accused Nos.1 to 3

Vs

State rep.by
The Inspector of Police,
All Women Police Station,
Pudukottai, Pudukottai District.
Crime No. 9 of 2021. ... Respondent/Complainant

For Petitioners : Mr.S.Poornachandran,
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.9 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 to A3, who apprehend arrest at the hands of the respondent police for the alleged offence punishable under Section 498-A of IPC and Section 4 of the Dowry Prohibition Act, 1961, in Crime No.9 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the marriage between the de-facto complainant and the first petitioner was celebrated on 19.10.2015. At the time of marriage, the de-facto complainant was provided with 13 sovereigns of gold jewels and Rs.2,00,000/- worth of household articles as sridhana. A sum of Rs.1,00,000/- was given as a cash. In January 2016, the de-facto complainant's husband took her to Chennai for a separate residence and he got Rs.1,00,000/- for the purpose of house warming ceremony from her parents. Two months thereafter, he demanded Rs.5,00,000/- for buying a car. For that, her mother has given only a sum of Rs.1,15,000/- to her husband. Thereafter, frequently, the first

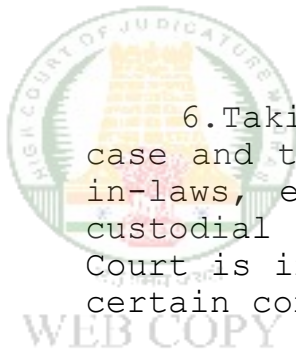


petitioner picked up fight with the de-facto complainant alleging that she has not brought sufficient dowry and sridhana. Her husband was not ready for a happy family life. Since the first petitioner had not had physical relationship with her, she could not get conceived. When she was suggested for medical test, he refused to spend the expenses and her mother only spent money for the medical expenses. It is revealed that after medical examination, there is some PCOD problem in her uterus and the doctor advised her to take medication. But the first petitioner/husband has not taken care to continue her medical treatment. He started scolding that the de-facto complainant has not yet given birth to a child. In June 2018, one day, her husband removed her dress and beaten her and asked her to commit suicide saying that he would marry again. These sorts of harassment continued till the filing of this case. All the accused in this case, continuously harassed the de-facto complainant on several times, claiming 50 sovereigns of gold jewels and Rs.10,00,000/- cash. Therefore, this case came to be registered.

3.The learned counsel for the petitioners submitted that the petitioners are innocents and they have been falsely implicated in this case. He further submitted that the first petitioner has sent legal notice to the de-facto complainant for divorce. He had also filed a petition under Section 13(1), (1-a), (1-b) of Hindu Marriage Act in H.M.O.P.No.103 of 2021 before the Principal Sub Court, Pudukottai. Only after filing of the divorce petition, the de-facto complainant has given this complaint. Therefore, he seeks anticipatory bail to the petitioners.

4.The learned Government Advocate (Criminal side) strongly opposed this petition on the ground that investigation is pending.

5.It is seen from the narration of the First Information Report that it is fairly a lengthy complaint with repeated allegations of physical and marital harassment, demanding more jewellery and cash. The marriage between the de-facto complainant and the first petitioner was solemnized on 19.10.2015. It appears that they have no children. Even as per the allegations made in the First Information Report that the de-facto complainant had some issues in her uterus and that may be the reason for not conceiving. The learned counsel for the petitioners also submitted that the main issue between the de-facto complainant and the first petitioner is that the de-facto complainant's inability to conceive. Though the marriage was celebrated in 2015 and it is alleged that the de-facto complainant was in continuous harassment three months from the date of marriage, the complaint was given only on 28.06.2021, after the filing of the divorce proceedings by the first accused. The truth or falsity of the allegations in the First Information Report and the counter allegations made by the learned counsel for the petitioners cannot be decided while considering the anticipatory bail petition. It is a matter for trial.



6. Taking into consideration the facts and circumstances of the case and the fact that the dispute between the husband and wife and in-laws, essentially a marital dispute and also the fact that the custodial interrogation of the petitioners are not necessary, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions:

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 Additional Mahila Court, Pudukottai, 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 first petitioner shall report before the respondent police, daily at 10.30 a.m., until further orders;

[c] the petitioners 2 and 3 shall report before the respondent police as and when required for interrogation;

[d] the petitioners shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioners shall not abscond either during investigation or trial;

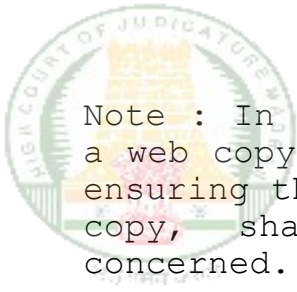
[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**;

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

sd/-
06/07/2021

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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.

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- TO
- 1.THE ADDITIONAL MAHILA JUDGE,
PUDUKOTTAI.
 - 2.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PUDUKOTTAI, PUDUKOTTAI DISTRICT.
 - 3.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.8859 of 2021
Date :06/07/2021

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AE/JC/SAR-V/09.07.2021/4P/4C