



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26/07/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.9419 of 2021

M.Balamurugan

... Petitioner/Accused No.1

Vs

The State Represented by
The Sub Inspector of Police,
All Woman Police Station,
Virudhunagar,
Virudhunagar District.
(In Crime No.03/2020).

... Respondent/Complainant

For Petitioner : M/s.M.Jothibasu,
Advocate.

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

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

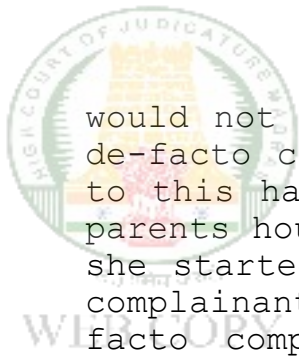
PRAYER :-

For Anticipatory Bill in Crime.No.03 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 498(A), 323 and 506(I) of IPC, in Crime No.03 of 2020, seeks anticipatory bail.

2.The case of the prosecution is that the marriage between the petitioner and the de-facto complainant was celebrated on 30.01.2012. They have no issues. Her husband was working in Kathar earlier and a house was constructed from his income and the de-facto complainant's mother-in-law is living there. Her mother-in-law, believing that if the de-facto complainant delivers a child, her son



would not take care of her, prevented her son from living with the de-facto complainant and raised one issue or other every day. Due to this harassment, she left her matrimonial home and lived in her parents house from 2017 to 2019. Then, there was a conciliation and she started to live with her husband. On 20.03.2020, the de-facto complainant's mother-in-law, one Chellapandian had beaten the de-facto complainant and pushed her from out of house for flimsy reason, for which, she gave a complaint to All Women Police Station, Viruthunagar on 21.03.2020. After compromise, she again started to live in a tiled house. However, her husband has not provided any money for her maintenance. Her mother-in-law locked the toilet and prevented the de-facto complainant from using it. She was again beaten by her husband, mother-in-law and Chellapandian on 07.05.2020. Therefore, this case came to be registered.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent and he has been falsely implicated in this case. He further submitted that the co-accused had already been granted anticipatory bail by the Sessions Court.

4.The learned Government Advocate (Crl.side) for the respondent strongly opposed this petition on the ground that investigation in this case is not completed.

5.Perusal of the First Information Report shows that the marriage had taken place between the de-facto complainant and the petitioner on 30.01.2012. It is her case that ever since the day of marriage, she has been continuously harassed till the filing of the case. The allegation with regard to harassment ought to be decided only in the course of trial. This is a matrimonial dispute. If the petitioner is arrested and sent to jail, the possibility of reunion would be lost for ever.

6.In view of the facts and circumstances of the case, the custodial interrogation of the petitioner is not necessary. Therefore, this Court is inclined to grant anticipatory bail to the petitioner with conditions.

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate Court No.II, Virudhunagar, on condition that the 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 the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

[a]the 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 petitioner shall report before the respondent police, daily at 10.30 a.m., until further orders;

[c]the petitioner shall not tamper with evidence or witness either during investigation or trial;

[d]the 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 petitioner in accordance with law as if the conditions have been imposed and the 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]**;

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

sd/-

26/07/2021

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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 NO.II,
VIRUDHUNAGAR.

2.DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
VIRUTHUNAGAR DISTRICT AT SRIVILLIPUTTUR.

3.THE SUB INSPECTOR OF POLICE
ALL WOMAN POLICE STATION, VIRUDHUNAGAR,
VIRUDHUNAGAR DISTRICT.

4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/s.M.JOTHIBASU, Advocate SR.No.4842 dated 27.07.2021.

ORDER

IN

CRL OP(MD) No.9419 of 2021

Date :26/07/2021

SS/JM/SAR-III/02.08.2021 : 3P/6C