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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 07/09/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.11985 of 2021

1. B.Balachander
2. B.Malliga
3. B.Balavidhya

... Petitioners/Accused
No.1 to 3

Vs

State rep.by
The Inspector of Police,
Batlagundu Police Station,
Dindigul District.
(Crime No.137 of 2019).

... Respondent/Complainant

For Petitioners : M/s.Pandiarajan P, Advocate.

For Respondent : M/s.P.Kottaichamy,
Government Advocate (Crl.Side)

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

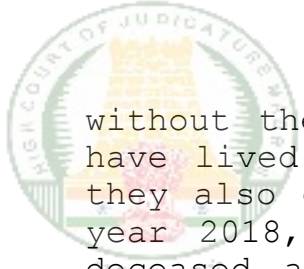
PRAYER :-

For Anticipatory Bail in Crime No.137 of 2019 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 to A3 apprehending arrest at the hands of the respondent police for the alleged offence punishable under Section 174(3) Cr.P.C. @ 306 IPC in Crime No.137 of 2019 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the deceased is none other than the wife of the first petitioner. The first petitioner and the deceased had loved each other and they have also married



without the knowledge of their parents. After the marriage, they have lived peacefully without the disturbance of their parents and they also gave birth to a female child, namely, Mahilmathi. In the year 2018, the first petitioner's father died and therefore, the deceased along with her husband visited the house of the second petitioner and thereafter, they lived together. When the deceased was living in the house of the second petitioner, at the instigation of the second petitioner, the first petitioner started harassing the deceased and also snatched away the child from the deceased and driven her out of the matrimonial home. Therefore, she lodged a complaint before the All Women Police Station, Nilakottai and the same was treated as petition enquiry in CSR No.239 of 2018. During the enquiry, the first petitioner appeared before the Inspector of Police, Nilakottai and handed over the child to the deceased. Even thereafter, the first petitioner attacked the deceased and thereby, she committed suicide. Hence, the complaint.

3.The learned counsel for the petitioners submits that the deceased had left her parents and decided to live with the first petitioner. Only after the death of the deceased, the parents of the deceased gave a false complaint against these petitioners. He further submits that the first petitioner is a practicing Advocate before this Court and the second petitioner is the mother and the third petitioner is the sister, who is also an MBBS graduate.

4.The learned Government Advocate (Crl. Side) for the respondent submits that the RDO enquiry was conducted and the Revenue Divisional Officer had given a report stating that there is no material for dowry harassment.

5.Considering the rival submissions made, this Court has also summoned the previous complaint, dated 20.09.2018 and found that the first petitioner and the deceased who performed the love marriage against the wishes of their parents, were living together for more than five years and they were also blessed with a female child through the marriage. Thereafter, the first petitioner's father died in the year 2018. They joined with the family of the second petitioner and thereafter, at the instigation of the second petitioner, the first petitioner harassed and forcefully taken her child and also driven her out of the matrimonial home. Therefore, she lodged a complaint before the All Women Police Station, Nilakottai and the same was treated as petition enquiry in CSR No.239 of 2018 and during the enquiry, the first petitioner appeared and also agreed to hand over the child to the deceased.

6.A perusal of the records reveals that the deceased faced harassment, after she joined the family of the second petitioner. She trusted the first petitioner, left her parents and decided to live with him. But the first petitioner harassed her and also driven her out of the matrimonial home. On account of that, she committed suicide and therefore, this Court is not inclined to grant anticipatory bail to the petitioners 1 and 2. Accordingly, this

Criminal Original Petition is dismissed as against the petitioners 1 and 2.

7. Considering the fact that the third petitioner is the sister of the first petitioner, who is also a Doctor and also the fact that there is no bad antecedent against the third petitioner/A3, this Court is inclined to grant anticipatory bail to the third petitioner with certain conditions.

8. Accordingly, this Criminal Original Petition is allowed insofar as the third petitioner is concerned and the third petitioner is ordered to be released on bail in the event of arrest or her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Nilakkottai, on condition that the third 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 learned Magistrate concerned and on further conditions that:

(a) the third petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(b) the third petitioner shall report before the respondent police every Monday at 10.30 a.m until further orders.

(c) the third petitioner shall not tamper with the evidence or witness either during investigation or trial;

(d) the third petitioner shall not abscond either during investigation or trial;

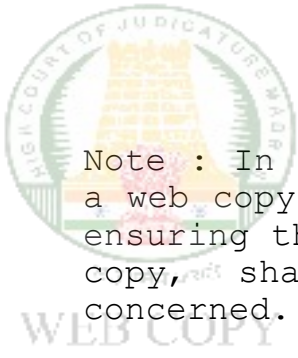
(e) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the third petitioner in accordance with law as if the conditions have been imposed and the third petitioner released on bail by the learned Magistrate/Trial Court himself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

(f) if the accused/third petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

Sd/-
07/09/2021

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/ /2021
Sub-Assistant Registrar (C.S.III)
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, Nilakkottai.
2. The Chief Judicial Magistrate,
Dindugal District.
3. The Inspector of Police,
Batlagundu Police Station,
Dindigul District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER

IN

CRL OP (MD) No.11985 of 2021

Date : 07/09/2021

SP/VR/SAR III/23/09/2021/4P/5C