



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

Date : 26.10.2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

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CRL OP(MD)No.13489 of 2021

1.Leon Raj
2.Jesu Arul Raj

... Petitioners/Accused No.1 & 2

Vs

The State represented by
The Inspector of Police,
All Women Police Station,
Nagercoil,
Kanyakumari District.
[Crime No.44 of 2021]

... Respondent/Complainant

For Petitioners : M/s.R.Ilayaraja, Advocate.

For Respondent : Mr.T.Senthilkumar

Government Advocate (Crl. Side)

For Intervenor : MS.L.VICTORIA GOWRI, Advocate.

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

PRAYER :-For Anticipatory Bail in Crime No.44 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 offence punishable under Sections 498(A), 406, and 506(ii) IPC and Sections 3(1), 4 and 6 of Dowry Prohibition Act in Crime No.44 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the marriage between the first petitioner and the defacto complainant was solemnised on 08.05.2017. At the time of marriage, 130 sovereigns of gold jewels and Rs.10/- Lakh were presented by the parents of the defacto complainant. Further the first petitioner has retained Rs.One Lakh given by her parents. It is further alleged that the defacto complainant was subjected to harassment and cruelty by the petitioners and more particularly sexual advances from the second petitioner. They have also demanded dowry from the defacto complainant. Moreover, the defacto complainant was prevented from joining the first petitioner, who is working as Scientist in CISR-North East Institute of Science and Technology, Jorhat, Assam.



3.It is further alleged that after the child birth, when the defacto complainant went to the matrimonial house, she was abused and her sister was assaulted by her brother in-law. Apprehending criminal action, the first petitioner filed an application for reunion.

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4.The learned counsel for the petitioners submitted the first petitioner after completion of his Ph.D and Post Doctoral Fellowship from Indian Institute of Technology, joined as Scientist in the field of structural engineering in CSIR - North East Institute of Science and Technology (CSIR-NEIST), on 06.07.2017. Before that On 30.06.2017 the defacto complainant compelled the first petitioner to leave her in parent's home. Now, the present complaint has been filed after a period of three years from their separation.

5.The learned Counsel further submitted that the first petitioner has filed an application for restitution of conjugal rights in Tirunelveli, which was transferred to the file of the Family Court, Nagercoil in D.O.P.NO.376 of 2021 at the instance of the defacto complainant. The wife has filed a petition in D.V.O.P.No.12 of 2021 on the file of the Additional Mahila Court, Nagercoil. The second petitioner is an ex-service man. There was dispute between the defacto complainant and the first petitioner due to her adamant and dominant character and also due to her family members' frequent intervention.

6.It is further stated that the Inspector of Police, All Women Police Station, Nagercoil and the Counsellor of District Family Welfare Counselling Centre at Nagercoil advised the defacto complainant to reside with the first petitioner, but her parents are not allowing her.

7.Heard the learned Counsel on either and perused the materials placed on record.

8.On the earlier occasion, on the suggestion of the learned Counsel for the petitioners, since it was a matrimonial dispute, this matter was referred for mediation by appointing Mr.K.P.Narayanakumar, learned Counsel as Mediator. Accordingly, the learned Mediator has held mediation and filed his report. It is stated in the report that the wife is not ready for reunion as of now. She could not lead a normal life with the husband straightaway, since they are living separately for the past two years. However, the husband is ready for reunion. Therefore, neither reunion nor separation is possible for the present.

9.It is also stated in the report that the belongings of the wife, which are available with the husband have been handed over to the wife and a cheque bearing No.878250, dated 19.10.2021 for a sum of Rs.6,25,000/- was handed over to her in his presence. The defacto complainant has admitted that she possesses 17.5 sovereigns of gold jewels presented to her by the petitioner's family during the



10.The first petitioner has filed an undertaking affidavit that he is willing to pay a sum of Rs.10,000/- as monthly maintenance to his wife and child.

11.The District Social Welfare Officer, Kanniyakumari has also filed a report that there is no dowry harassment.

12.In view of the above and the nature of allegations levelled against the petitioners, considering the undertaking of the first petitioner that he is ready to pay monthly maintenance to the wife and child, handing over of the belongings of the wife and the report of the Mediator and the District Social Welfare Officer, this Court is inclined to grant anticipatory bail to the petitioners. Accordingly, this criminal original petition is allowed. 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/ Additional Mahila Court, Nagercoil, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a]the petitioners 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 petitioners shall report before the respondent police as and when required for interrogation.

[c]the petitioners shall not tamper with the 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 petitioner are 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/-
26/10/2021

/ TRUE COPY /

/ /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.

TO

- 1 THE JUDICIAL MAGISTRATE/
ADDITIONAL MAHILA COURT, NAGERCOIL.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, NAGERCOIL,
KANYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE DISTRICT SOCIAL WELFARE OFFICER,
KANNIYAKUMARI.

+1 CC to Mr.R.ILAYARAJA, Advocate (SR-7446[I] dated 26/10/2021)

ORDER
IN
CRL OP(MD) No.13489 of 2021
Date :26/10/2021

dsk
MK/SKN/SAR.IV/29.10.2021/4P/7C