



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

Date : 25/10/2021

PRESENT

The Hon'ble Mr.Justice B.PUGALENDHI

CRL OP(MD).No.13886 of 2021

WEB COPY

P.Rajadurai

... Petitioner/Accused No.1

Vs.

The State Rep.by

The Inspector of Police,

All Women Police Station,

Theni District.

(Cr.No.17 of 2021)

... Respondent/Complainant

For Petitioner : Ms.Jeena Rita David

Advocate

for M/s. Polax Legal Solutions

For Respondent : Mr.R.Meenakshi Sundaram,

Additional Public Prosecutor

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

PRAYER :-

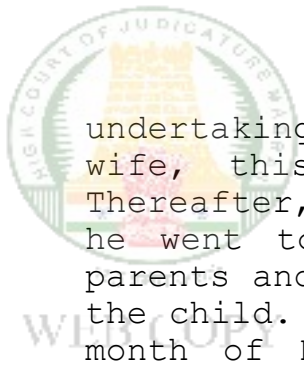
For Anticipatory Bail in Crime No.17 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 417, 498(A) and 294(b) IPC, in Crime No.17 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner herein had demanded the *de-facto* complainant to come with more dowry, harassed and attacked her. Hence the case has been registered.

3.The learned counsel for petitioner submitted that the petitioner and the defacto complainant Kayathiri were in relationship with each other and the same ended in marriage and they were blessed with a male child on 26.05.2019. Since the petitioner is employed in Military, he left the defacto complainant and their child in her parental home. Before that the mother of defacto complainant lodged a case in Crime No.27 of 2019. Hence, the petitioner filed Crl.O.P.(MD)No.2259 of 2020. Since he gave an



undertaking to marry the defacto complainant and accept her as his wife, this Court granted anticipatory bail to the petitioner. Thereafter, they were leading a peaceful matrimonial life. Whenever, he went to Military, the defacto complainant quarreled with his parents and she assaulted the child, which led to hospitalization of the child. The defacto complainant left the matrimonial home in the month of December 2020. Since, the petitioner did not know the whereabouts of the defacto complainant, he filed a petition for divorce. On receiving the notice in the said proceeding, the defacto complainant lodged the present false complaint.

4. In addition to this the learned counsel for the petitioner further submitted that as per order of this Court, without prejudice to the defence, he is prepared to pay maintenance to his wife and child and he is also paying a sum of Rs.5,000/-. In addition to that, he is willing to pay a sum of Rs.2,000/- to the account of the de-facto complainant [Account No.7053631503].

5. The learned Additional Public Prosecutor appearing for the respondent police strongly opposed to grant bail to the petitioner that when the petitioner cheated the de-facto complainant, an FIR has been registered as against the petitioner in Cr.No.27 of 2019. Since he promised to marry the victim and take her as his wife, the said case was closed. But contrary to his promise, he cheated the de-facto complainant.

6. Considering the facts and circumstances of the case, the nature of allegation and the fact that the petitioner is willing to pay maintenance without prejudice to his defences and also considering that the petitioner is working in Military, this Court is inclined to grant anticipatory bail to the petitioner.

7. Accordingly, this criminal original petition is allowed and 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 Mahila Court, Theni District, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees twenty Five 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 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 Aadhaar card or bank pass book to ensure their identity;

[b] the petitioner shall report before respondent police as and when required for interrogation;

[c] the petitioner shall not tamper with the 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/-
25/10/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO vsd

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 Judge, Mahila Court, Theni District.
2. The Inspector of Police,
All Women Police Station,
Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER
IN
CRL OP(MD) No.13886 of 2021
Date : 25/10/2021

RD/VR/SAR-IV(08.11.2021) 3P 4C