



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

Date : 14/12/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.18424 of 2021

1. Sulthan Ibrahim
2. Kareem

... Petitioners/Accused No.1 & 2

Vs

The State Rep.by
The Inspector of Police,
All Women Police Station,
Theni District.
Crime No.52 of 2021.

... Respondent/Complainant

For Petitioners: Mr.J.Sulthan Basha, Advocate for
M/s.Ajmal Associates

For Respondent : Mr.P.Kottaisamy,
Government Advocate (Crl.Side)

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

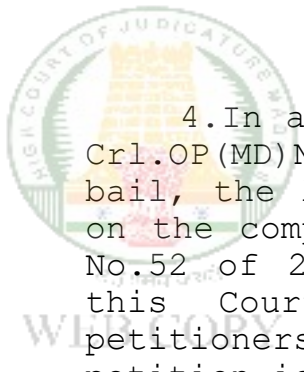
PRAYER :- For Anticipatory Bail in Crime No.52 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioners and the learned Government Advocate(Crl. Side) appearing for the respondent.

2.The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 406 & 409 IPC, in Crime No.52 of 2021, seek anticipatory bail.

3.The case of the prosecution is that the defacto complainant has registered a complaint against the petitioners alleging that the defacto complainant is the wife of the first petitioner and due to difference of opinion, they got divorce as per O.S.No.1 of 2019, dated 30.01.2020, by the District Munsif Court, Periyakulam. According to the defacto complainant, even after separation, the petitioners did not return her jewels and other sridhana articles to her. Hence, the defacto complainant lodged a complaint before the respondent police and the respondent police also conducted an enquiry and attempted to apprehend the petitioners. Hence, this



4. In an earlier occasion, when these petitioners have come with Crl.OP(MD)No.14431 of 2021 before this Court seeking anticipatory bail, the learned Additional Public Prosecutor submitted that based on the compliant given by the defacto complainant, a case in Crime No.52 of 2021 has been registered against the petitioners. Hence, this Court dismissed the application, with liberty to the petitioners to file fresh application. Accordingly, the present petition is filed by the petitioners.

5. The learned counsel for the petitioners submits that the first petitioner has filed an application in O.S.1 of 2019, before the Principal District Munsif Court, Periyakulam and the same was decreed in favour of the first petitioner. Knowing that, the present complaint has been foisted against him. It is also reported that still the jewels of the defacto complainant and the sridhana articles are with the petitioners.

6. Hence, on 09.12.2021, this Court referred the matter to the mediation and appointed Mr. Sendur Pandian, learned counsel as Mediator and directed the parties to appear before the Mediator.

7. Today (14.12.2021), the Mediator has filed his report stating that though notice has been sent to the defacto complainant, she has not co-operated with the enquiry. Therefore, mediation fails.

8. It appears that the defacto complainant, having lodged a complaint against the petitioners that her jewels and sridhana articles are still with the petitioners, when an opportunity was provided to make out her case before the Mediator, she has not co-operated for the mediation process.

9. In view of the above and considering the fact that the marriage between the petitioner and the defacto complainant was already dissolved by order of the Principal District Munsif Court, Periyakulam in O.S.No.1 2019, this Court is inclined to grant anticipatory bail to the petitioners.

10. Accordingly, this criminal original petition is allowed and 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 Judicial Magistrate Court, Theni, on condition that the petitioner 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 Judge 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 Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.



[b]the petitioners shall report before respondent police as and when required.

[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 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]**.

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

sd/-
14/12/2021

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

+1CC to M/s.AJMAL ASSOCIATES, Advocate (SR-9305[I] dated 15/12/2021)

ORDER IN
CRL OP(MD) No.18424 of 2021
Date :14/12/2021

VRN

MS/CN/SAR-4/21.12.2021/3P.6C

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