



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 16/12/2021
PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) No.18639 of 2021

1 RAJAGOPAL
2 S.R.KAVITHA

... PETITIONERS/ACCUSED Nos.1 AND 2

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
ARUMANAI POLICE STATION,
KANYAKUMARI DISTRICT.
CR.NO. 44 OF 2021.

... RESPONDENT/COMPLAINANT

For Petitioners: Mr.R.ILAYARAJA, Advocate

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

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 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 :-

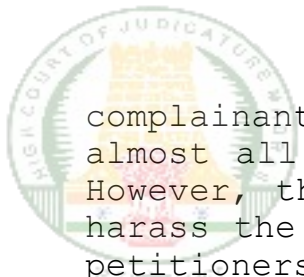
Heard the learned counsel appearing for the petitioners and the learned Government Advocate(Crl. Side) appearing for the respondent.

2.The petitioners, who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 294(b), 323, 355 & 506(ii) IPC, r/w Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002, registered in Crime No. 44 of 2021, dated 29.01.2021, seek anticipatory bail.

3.The case of the petitioners is that due to money dispute, the petitioners abused the defacto complainant in filthy language and also attacked her. Therefore, the present case came to be registered.

4. These petitioners moved anticipatory bail earlier, which came to be dismissed by this Court on 29.10.2021, on the ground that the petitioners did not co-operate for the enquiry, after obtaining interim anticipatory bail.

5.The learned counsel for the petitioners submits that there was a money dispute between the petitioners and the defacto



complainant even in year 2016 and according to the petitioners, almost all the amount has been settled to the defacto complainant. However, the defacto complainant has insisted for more interest and harass the petitioners, with the help of the respondent police. The petitioners have lodged a complaint as against the conduct of the respondent police before the Superintendent of Police. This case has been registered as if these petitioners have abused and assaulted the defacto complainant, when she demanded money.

6.The learned Government Advocate submits that they have conducted an enquiry and the enquiry revealed that these petitioners have received some amount, 14 sovereigns of jewels from the defacto complainant and failed to pay the amount as well as failed to return the jewels to the defacto complainant. Further, he submits that these petitioners have given an undertaking that they will repay the amount to the defacto complainant.

7.This Court paid its anxious consideration to the rival submissions made and also perused the materials placed on record.

8.Admittedly, it is a money transaction between the petitioners and the defacto complainant and the nature of allegation in the complaint also reveals that when the defacto complainant asked to return the money, these petitioners have abused and also assaulted the defacto complainant. Considering the averments found in the First Information Report that the issue involved in this case is purely civil in nature, this Court is inclined to grant anticipatory bail to the petitioners.

9.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 No.I, Kuzhithurai, Kanyakumari 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:

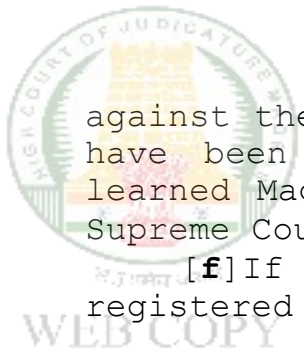
[a]the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

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

[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/-
16/12/2021

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/ /2022
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.I
KUZHITHURAI, KANYAKUMARI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 3 THE INSPECTOR OF POLICE
ARUMANAI POLICE STATION,
KANYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.ILAYARAJA.R, Advocate SR.No.9366

ORDER

IN

CRL OP (MD) No.18639 of 2021
Date :16/12/2021

SA/PN/SAR.2/05.01.2022/3P/6C