



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Tuesday, the Fifteenth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.3473 of 2022

A.SURIYAKUMARI

[PETITIONER / ACCUSED]

Vs

STATE BY
INSPECTOR OF POLICE,
W-1, ALL WOMEN POLICE STATION,
THOUSAND LIGHTS.
CRIME NO. 01/2022

[RESPONDENT]

For Petitioner : M/S.RA.SIVADHARA ADIYAMAN Advocate

For Respondent : MR. S.SANTHOSH, Govt. Advocate (CrI. Side)

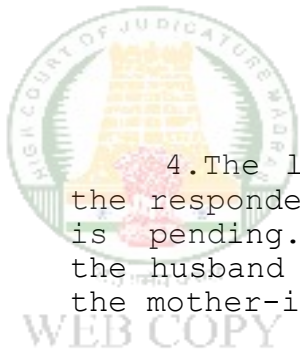
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest for the alleged offences under sections 498(A), 324, 506(ii) of I.P.C in Crime No.01 of 2022, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner, who is the Mother-in-Law of the defacto complainant along with other family members including the husband of the defacto complainant harassed the defacto complainant by demanding more dowry and also abused the defacto complainant by using filthy language. Hence, the defacto complainant lodged a complaint before the Law Enforcing Agency.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and she has not committed any offence as alleged by the prosecution. He further submitted that the petitioner is the Mother-In-law of the defacto complainant and also the present case has been registered for the family dispute in between the defacto complainant and son of the petitioner. Hence, he pleads for grant of anticipatory bail to the petitioner.



4. The learned Government Advocate (Criminal Side) appearing for the respondent police raised objection stating that the investigation is pending. However, he admits that the main accused in this case is the husband of the defacto complainant and further the petitioner is the mother-in-law of the defacto complainant.

5. The submissions made by the learned Counsel appearing on either sides are considered. This case has been registered against the petitioner for the offences under Sections 498(A), 324, 506(ii) of I.P.C. The petitioner is the mother-in-law of the defacto complainant. It is alleged by the prosecution that the petitioner along with other family members have demanded more dowry from the defacto complainant, as a result of which, the case has been registered against the petitioner by the respondent police on 13.01.2022.

6.. Since the alleged offence was happened between the family members of the petitioner and the de-facto complainant, it is necessary to follow the decision of our Hon'ble Supreme Court in Arnesh Kumar Vs State of Bihar and another [Crl.A.No.1277 of 2014], wherein it has been held as follows:

"There is phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A of the IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under the provision. In a quite number of cases, bed-ridden grand-fathers and grandmothers of the husbands, their sisters living abroad for decades are arrested. "Crime in India 2012 Statistics" published by National Crime Records Bureau, Ministry of Home Affairs shows arrest of 1,97,762 persons all over India during the year 2012 for offence under Section 498-A of the IPC, 9.4% more than the year 2011. Nearly a quarter of those arrested under this provision in 2012 were women i.e. 46,951 which depicts that mothers and sisters of the husbands were liberally included in their arrest net. Its share is 6% out of the total persons arrested under the crimes committed under Indian Penal Code. It accounts for 4.5% of total crimes committed under different sections of penal code, more than any other crimes excepting theft and hurt. The rate of charge-sheeting



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in cases under Section 498-A IPC is as high as 93.6% while the conviction rate is only 15%, which is lowest across all heads. As many as 3,72,707 cases are pending trial of which on current estimate, nearly 3,17,000 are likely to result in acquittal. Arrest brings humiliation, curtains freedom and cast scars forever. Law makers know it so also the police. There is a battle between the law makers and the police and it seems that police has not learnt its lesson; the lesson implicit and embodied in the Cr.P.C. It has not come out of its colonial image despite six decades of independence; it is largely considered as a tool of harassment, oppression and surely not considered a friend of public. The need for caution in exercising the drastic power of arrest has been emphasized time and again by Courts but has not yielded desired result. Power to arrest greatly contributes to its arrogance so also the failure of the Magistracy to check it. Not only this, the power of arrest is one of the lucrative sources of police corruption. The attitude to arrest first and then proceed with the rest is despicable. It has become a handy tool to the police officers who lack sensitivity or act with oblique motive"

6. Taking note of all the aspects into consideration and having regard to the nature of offence, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Learned Judicial Magistrate, Chennai 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a) the petitioner and the sureties shall affix his photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

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

(c) the petitioner shall report before the respondent police daily at 10.00 a.m. for a period of 30 days and thereafter as and when required for interrogation;



(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 has 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]; and;

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

-sd/-

15/02/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
CHENNAI

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU (FOR INFORMATION)

3 INSPECTOR OF POLICE,
W-1, ALL WOMEN POLICE STATION,
THOUSAND LIGHTS.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.S.YAVAVARUN Advocate on payment of necessary charges
SR.2446

CRL OP.3473/2022

Date :15/02/2022

RVR 18/02/2022