



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Fourth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.3939 of 2022

1 ALFRED PRAVEEN KUMAR
2 MARIA SELVAKUMAR
3 MARY SHEELA

[PETITIONERS/ ACCUSED]

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN'S POLICE STATION,
POLLACHI, COIMBATORE DISTRICT.
(CRIME NO.40/2021)

For Petitioner : M/S.C.SHYAAMALA Advocate

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

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

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest for the alleged offences under Sections 498(A), 406, 420, 107 and 506(2) of IPC in Crime No.40 of 2021, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant was married to the first petitioner and after the marriage, the first petitioner demanded dowry and also made life threat to her. The second and third petitioners are the parents of the first petitioner.

3. The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. She would further submit that the first petitioner is ex-husband of the defacto complainant. Earlier marriage happened between the defacto complainant and the first petitioner was dissolved on 26.11.2021 by the IV Additional Family Court at Chennai. After eight days from the date of divorce, the present complaint has



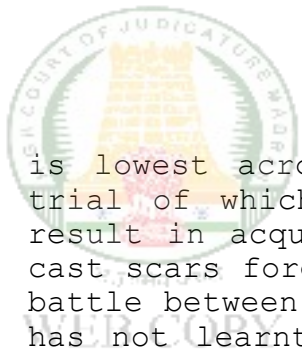
been lodged against these petitioners. In otherwise, they are no way connected with the alleged occurrence. Hence, she pleaded for grant of anticipatory bail to the petitioners.

4. The learned Government Advocate (Criminal Side) appearing for the respondent Police raised objection stating that investigation is pending. However he admits portion of the investigation has been completed.

5. Submissions made by the learned counsel appearing on either side are considered.

6. The averments found in the first information report would disclose the fact due to the family dispute, the present F.I.R. has been registered and after dissolution of the marriage as of now, the defacto complainant who is not in the capacity of the wife, lodged complaint against the first petitioner and others. Though it was found in the first information report that the defacto complainant paid Rs.3 lakhs as dowry to the first petitioner, in respect to the same, it has been stated that the same was transferred through fund transfer. Accordingly, being the reason that the present case has been registered in respect to the family dispute arised between the first petitioner and the defacto 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 ie. 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 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, curtails 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"

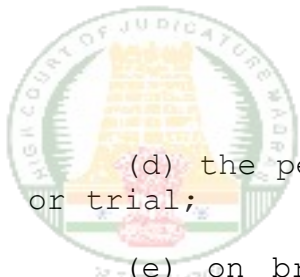
7. Now applying the principles narrated in the above said judgment rendered by our Hon'ble Apex Court herein also, and having regard to the nature of the offence committed by the petitioners, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. Accordingly, 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 XV Metropolitan Magistrate at George Town, Chennai 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 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 petitioners and the sureties shall affix their 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 first petitioner shall report before the respondent police daily at 10.00 a.m., for a period of one week and thereafter as and when required for interrogation; the second and third petitioners shall report before the respondent police as and when required for interrogation;

(c) the petitioners shall not tamper with 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 themselves 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

24/02/2022

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 XV METROPOLITAN MAGISTRATE,
GEORGE TOWN, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

3 THE IV ADDITIONAL FAMILY COURT
CHENNAI.

4 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
POLLACHI, COIMBATORE DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+3CC to M/S.C.SHYAAMALA Advocate on payment of necessary charges
SR.No.2885

CRL OP.3939/2022

Date :24/02/2022

CSK 02/03/2022