



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty First day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.4242 of 2022

1 E.V.DOLPHUS

[PETITIONERS / ACCUSED]

2 E.G.VARGHESE MATHEW

3 D.ANNA

Vs

STATE REP BY ITS

[RESPONDENT]

THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NEYVELI,
CUDDALORE DISTRICT
(CRIME NO.2 OF 2022)

For Petitioner : M/S.R.KARTHIKEYAN Advocate

For Respondent : M/S.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, 294(b), 323, 506(1) IPC r/w Section 67 of Information Technology Act, in Crime No.2 of 2022, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the first petitioner and the defacto complainant are husband and wife and it is alleged that due to matrimonial dispute, the petitioners abused the defacto complainant in filthy language and also threatened her by stating that her obscene photographs will be uploaded in the social media. Hence, the present case.



3.The learned counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have been falsely implicated in this case. He would further submit that the alleged occurrence was happened on 05.12.2020 and the present case has been registered on 10.02.2022, after a lapse of nearly one year. It is his specific submission that due to the reason that the first petitioner filed I.D.O.P for the relief of divorce, the present case has been registered as against him. Hence, he pleads for grant of anticipatory bail to the petitioners.

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 present complaint has been lodged by the defacto complainant after a lapse of one year from the date of occurrence.

5.Submissions made by the learned counsels appearing on either sides are considered.

6. The respondent police registered a case against the petitioners for the offence punishable under Sections 498 A, 294(b), 323, 506(1) IPC r/w Section 67 of Information Technology Act. Though, the offences under Sections 498A and 294(b) were incorporated in the First Information Report, the averments found in the said document disclose the fact that there was no material for the offence under Section 498A IPC. More than that it is alleged that on 05.12.2020, the first petitioner herein took photographs of the defacto complainant. Thereafter, after filing the I.D.O.P only on 04.12.2021, the present case has been registered.

7. Hence, taking all the above aspects into consideration, particularly on considering the fact that the present case has been registered with huge delay, this Court is inclined to grant Anticipatory bail to the petitioners.

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 District Munsif Cum Judicial Magistrate, Neyveli, Cuddalore District on condition that the each of the petitioners 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 petitioners 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 First petitioner shall report before the respondent police daily at 10.00 a.m., until further orders. The second and third petitioners shall report before the respondent police daily at 10.00 a.m., for a period of two (2) weeks and thereafter 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 petitioner 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]; and;

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

-sd/-
21/02/2022

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, NEYVELI,
CUDDALORE DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE DISTRICT. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NEYVELI, CUDDALORE DISTRICT.



4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

WEB COPY

+1 CC to M/S.R.KARTHIKEYAN
charges SR.NO. 2661

Advocate on payment of necessary

CRL OP.4242/2022

Date :21/02/2022

RW 24/02/2022