



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Fifth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.4628 of 2022

1 NATARAJAN [PETITIONERS / ACCUSED]
2 PADMAVATHY
3 JEYACHANDRAN
4 VIJAYALAKSHMI

Vs

STATE REP BY [RESPONDENT]
THE INSPECTOR OF POLICE,
W-30, ALL WOMEN POLICE STATION,
POONAMALLEE, CHENNAI-56.
(CR.NO.5 OF 2022)

For Petitioner : M/S.S.MADHUSUDANAN Advocate

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

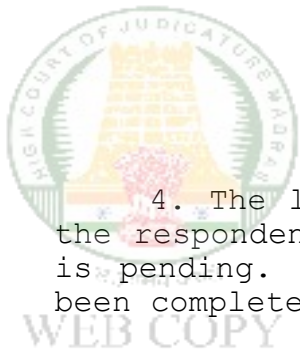
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioners, who apprehend arrest for the alleged offences under Sections 406 and 498(A) of IPC, in Crime No.5 of 2022, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioners are in-laws of the defacto complainant and it is alleged that due to matrimonial dispute, the petitioners harassed the defacto complainant and also abused her in filthy language. Hence, the present case.

3.The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have not committed any such offences as alleged by the prosecution. He further submits that the petitioners are in-laws of the defacto complainant. Only due to personal vengeance against them, the present case has been registered. Further, the alleged offence committed by the petitioners is in respect of the family dispute. Hence, he prays 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 a portion of investigation has been completed.

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

6. The respondent police registered a case against the petitioners for the offences punishable under Sections 406 and 498(A) of IPC. Admittedly, the husband of the defacto complainant is not the petitioner herein. Since, the petitioners are in-laws of the defacto complainant and also the present case has been registered in respect of the family dispute, 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 Indian 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 casts 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 set out in the above referred Judgment herein also, if any order is passed against these petitioners, it would affect the possibility of settlement. Further, the petitioners are having permanent residence.

8. Taking note of all the above said aspects into consideration and having regard to the nature of the offence committed by the petitioners, this Court came to the conclusion that for the completion of investigation, custodial interrogation of the petitioners may not be necessary in this case. Hence, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

9. 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 Judicial Magistrate -2, Poonamallee, Chennai, on condition that 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 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 petitioners 1 and 3 shall report before the respondent police daily at 10.00 a.m., for a period of One (1) Month and thereafter as and when required for interrogation. The petitioners 2 and 4 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 petitioner in accordance with law as if the conditions have 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

25/02/2022

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-2,
POONAMALLEE, CHENNAI.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVALLUR [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
W-30, ALL WOMEN POLICE STATION,
POONAMALLEE, CHENNAI-56.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.S.MADHUSUDANAN Advocate on payment of necessary charges SR.No.3023

CRL OP.4628/2022

Date :25/02/2022

CSK 03/03/2022