



Crl.O.P.No.26197 of 2022

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A.D.JAGADISH CHANDIRA, J.

The petitioners who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 498-A, 294(b), 323 and 506(i) of IPC in Crime No.45 of 2022 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the de facto complainant Kavitha is that the first accused/A1 got married to the de facto complainant on 22.01.2020 and out of their wedlock they have three children, two girls and one boy. The further allegation is that her husband A1 was Alcoholic and he used to create problems regularly. The further allegation is that during August 2020, her husband in a drunken state tried to kill the de facto complainant and her children and thereby she had left the matrimonial home along with her children and was living in her parents home. While so, on 11.02.2021 at about 1.00 p.m., when the de facto complainant was not at home, her husband along with his friend one Ramesh and three other persons had trespassed into



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the house of the de facto complainant and abused the de facto complainant's parents with filthy language, also assaulted and pushed them. Thereafter, the accused had taken away the children in a red colour car. Hence the complaint.

3. The learned counsel for the petitioners would submit that there is a matrimonial dispute between the first accused/A1 and his wife and a case of matrimonial dispute has been exaggerated. He would further submit that on 03.08.2020, the de facto complainant had gone to her parents home along with her children and did not come back and thereby, on 11.02.2021, the first petitioner/A1 had gone to the de facto complainant's parents home and the children have voluntarily come along with the first petitioner/A1. He would further submit that the first petitioner/A1 has put the Children in a reputed School by name 'Geekay World School at Ammur, Ranipet District' and the Children are studying well. He would also submit that the first petitioner requested the de facto complainant for reunion but the de facto complainant refused the same. Thereafter, the first petitioner has filed an application for Restitution of



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Conjugal Rights in H.M.O.P.No.38 of 2021 before the Sub-Court, Arakkonam. Later, as a counterblast, the de facto complainant has filed a petition for divorce in H.M.O.P.No.65 of 2021 before the Sub Court, Tambaram. Subsequently, the de facto complainant has also filed an application seeking for transfer of the petition filed by the petitioner and now both the H.M.O.Ps are being tried together before the Sub Court, Alandur. He would further submit that the first petitioner is also ready to permit the de facto complainant for visitation and an when she wants to visit the children, whereas, with an ulterior motive, the de facto complainant has approached the respondent police, who in turn are harassing the first petitioner to hand over the children to the de facto complainant. He would further submit that a case of matrimonial dispute is blown out of proportion and no one was injured in the above incident and a false and exaggerated complaint was given by the de facto complainant. Hence he seeks to grant anticipatory bail to the petitioners.

4. The learned Government Advocate (Criminal side) for the respondent would submit that the first petitioner, who is the husband of



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the de facto complainant had trespassed into the parents home of the de facto complaint and had kidnapped the children with the help of his friends. He would further submit that the investigation is still pending. Hence, he vehemently opposed to grant anticipatory bail to the petitioners.

5. Heard both sides and perused the materials available on record.

6. Taking into consideration the facts and circumstances of the case and also the submission that it is a matrimonial dispute, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. 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 on which the order copy made ready, before the **learned Judicial Magistrate No.I, Tambaram, Chengalpet District** on condition that the each of the petitioners shall execute a separate bond for



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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, failing which, the petition for anticipatory bail shall stand dismissed 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 Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioners shall report before the respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter every Saturday at 10.30 a.m., until further orders.

[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.



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[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 229A IPC.

28.10.2022

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