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CRL OP(MD)



22

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved On : 05/09/2022

Delivered on : 08/09/2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD). No.989 of 2022

and

Crl.M.P. (MD)No.1390 of 2022

Rasool Ansari

... Petitioner/Sole Accused

Vs

The State rep.by,
The Inspector of Police,
All Women Police Station,
Golden Park, Trichy District
(Crime No.15 of 2021)

... Respondent/Complainant

For Petitioner : M/s.Subash Babu.M, Advocate.
For Respondent : Mr.M.Vaikkam Karunanithi,
Government Advocate (Crl.Side)
For intervenor : Mr.S.Krishnan, Advocate.

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

PRAYER :-For Anticipatory Bail in Crime No.15 of 2020 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 294(b), 323, 417, 354 and 506 (i) I.P.C, in Crime No.15 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. Heard both sides.

3.(i) The case of the prosecution is that the petitioner and the defacto complainant got married in the year 1999 and they had three children. They came to India during June, 2010. Since the petitioner failed to maintain his family, the defacto complainant lodged a complaint in the year 2012. During the course of enquiry, a compromise was arrived and the petitioner agreed to settle the

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(ii) Due to the harassment of petitioner, the defacto complainant lodged another complaint on 13.06.2020. Due to pandemic situation, it was not proceeded further. The matter was placed for enquiry on 05.08.2021 and 13.08.2021, before the respondent Police. On 13.08.2021, the petitioner entered into the house of the defacto complainant, abused and assaulted her, threatened her with dire consequences, thereby, she sustained simple injuries. Hence, the present FIR came to be registered by the respondent Police.

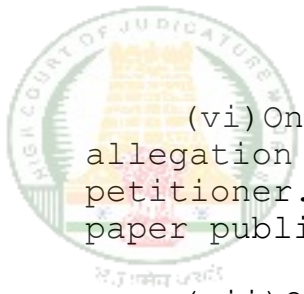
4.(i). On the side of the petitioner, it is stated that due to misunderstanding between the petitioner and the defacto complainant, they are living separately. At that time, the defacto complainant filed an Indigent O.P.No.17 of 2015, on the file of Principal Sessions Court, Trichy, as well as complaint in D.V.O.P.No.50 of 2017 before the Additional Mazhila Court, Trichy and also lodged a criminal complaint before the All Women police Station, Ponmalai in Crime No.10 of 2017, under Section 498(A) IPC. When the petitioner reached Madurai from Kuwait, he was arrested in Crime No.10 of 2017.

(ii) Since there is no chance for reunion, the petitioner entered into compromise agreement on 15.02.2018. As per the compromise agreement, the petitioner conveyed his properties in S.Nos.118/1, 119, 119/1. 120/1 situated in J.K.Nagar, Trichy, in favour of his three children and in turn the defacto complainant has to withdraw her complaints and the marriage is to be declared as nullity.

(iii) On the basis of the agreement, the petitioner executed the settlement deed on 15.02.2018, in favour of the three children. The defacto complainant also withdraw the case in O.P.No.17 of 2015, DVOP No.50 of 2017 and in view of the above, the Crime No.10 of 2017 was quashed by this Court. There was no contact between the petitioner and the defacto complainant for the past 2 years.

(iv) All of a sudden, on 14.08.2022, the petitioner was called upon by the Inspector of Police, Gandhipuram Market Police Station, where, he came to understand that a false case was filed against him. After enquiry the complaint was closed and with the same set of facts, the petitioner has filed another complaint before the Assistant Commissioner of Police. Again the petitioner was called for enquiry, the Assistant Commissioner of Police supported the defacto complainant and instructed the petitioner to pay Rs.10 lakhs in favour of the defacto complainant.

(v) The petitioner sent a representation to the Commissioner on 19.12.2019 and since there is no progress, the petitioner filed a petition for direction in Crl.OP.No.19415 of 2019. In view of the above, the complainant was closed and subsequently the Crl.O.P was also dismissed by this Court.



(vi) On 04.06.2020, the defacto complainant published the allegation in the newspaper and sent a legal notice to the petitioner. The petitioner also gave proper reply for both the paper publication and the legal notice.

(vii) On 19.06.2020, the respondent Police called the petitioner for enquiry and threatened him to settle Rs.10,00,000/- to the defacto complainant. The petitioner came to understand that for the third time, a complaint was lodged by the defacto complainant on the same set of facts.

(viii) The petitioner is aged about 78 years. He is a heart-patient and he underwent heart surgery and four stents have been fixed in his heart. A portion of his gallbladder was also removed and he is still undergoing treatment. Only to harass the petitioner, the defacto complainant lodged various complaints, with the same set of allegations. Though, the entire dispute was settled a few years ago, the defacto complainant is still torturing the petitioner only to extract money from him.

5. Considering the facts and circumstances of the case and considering the fact that O.P.No.17 of 2015 was disposed of on the basis of a compromise agreement and also considering the fact that earlier complaint, dated 14.08.2022 was closed by the respondent police, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

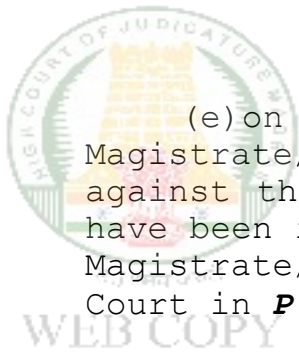
6. Accordingly, this petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Additional Mahila Court, Trichy, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions that:

(a) the petitioner 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 petitioner shall report before the respondent police daily at 10.30 am for a period of 1 month and thereafter as and when required;

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

(d) the petitioner shall be present before the Court on hearing and before the respondent police as and when required;



(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 absconds, a fresh FIR can be registered under Section 229-A IPC.

Consequently, connected Miscellaneous Petition is closed.

sd/-

08/09/2022

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDGE,
ADDITIONAL MAHILA COURT, TRICHY.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, GOLDEN PARK,
TRICHY DISTRICT
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) . No.989 of 2022

and

Cr1.M.P.(MD)No.1390 of 2022

Date :08/09/2022

Pnm/Ls

MK/SBN/SAR.IV/12.09.2022/4P/4C