



WEB COPY



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 01/09/2022

PRESENT

The Hon'ble Mr. Justice G.ILANGO VAN

Crl.OP(MD)No.3203 of 2022

1.P.Vigneshkanna
2.P.Sivakami
3.N.Palanisamy
4.P.Vidhyasagar
5.V.Maharajothi

... Petitioners/Accused
No.1 to 5

Vs.

1.State rep. By
The Inspector of Police,
All Women Police Station,
Marthandam,
Kanyakumari District.
(Crime No.11 of 2022)

... Respondent/Complainant

(*) 2.Shyni

... 2nd Respondent/Defacto
Complainant

(*) (R2 suo motu impleaded as per order of
this Hon'ble Court dated 15.02.2022 in
Crl.O.P.(MD)No.3203 of 2022 by KMSJ)

For Petitioners : Mr.T.Thirumurugan, Advocate

For 1st Respondent : Mr.Thanga Aravandh.B
Government Advocate
(Criminal side)

For 2nd Respondent : Mr.P.Balasubramanian, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.11 of 2022 on the file of the
Respondent Police.



ORDER : The Court made the following order:-

The petitioners, who are arrayed as A1 to A5 apprehending arrest at the hands of the respondent police for the offences punishable under sections 498(A) and 406 and section 3(1), 4, 6 of Dowry Prohibition Act, in Crime No.11 of 2022 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the de-facto complainant lodged a complaint stating that when she and A1 were working in a hospital, they loved each other and without consent of both side families, they performed marriage in the presence of A2 to A4. After that, they started living together in the matrimonial home. During that time, she was tortured by demanding dowry. When that was intimidated to A3 and A4, they also tortured and A2 also abused her. Later there was a compromise between the parties, when she attempted to commit suicide. Again torture was made demanding 35 sovereigns of gold jewels. That was also presented. Thereafter, she became pregnant. Again they demanded Rs.10,00,000/-. Because of the assault that was made by A1, child was aborted. Later she became pregnant and delivered a female child. But no proper care was also taken and again, she was assaulted and tortured. They also took away the two months child. Over which, the case was registered and the child was restored. Again they started living together, since Rs.8,00,000/- was paid. After that A1 by receiving gold jewels went to Bangalore and later, that was pledged. When that was questioned there was assault. Again they received Rs.3,00,000/- from the de-facto complainant's sister. On 27/07/2021 again they made assault. So she lodged a complaint before the All Women Police Station, Kulithurai. Later it was learnt that A4 married A5. A5 also made trouble through telephone. With these allegations, she filed a complaint under section 156(3) Cr.P.C and that was forwarded to the police, over which the present case has been registered.

3.Seeking anticipatory bail, all the five accused persons are before this court. Even though notice was ordered to 2nd respondent, she was also represented by a Advocate, the matter was referred to mediation and there was no settlement between the parties. It was submitted that the certificates are in the custody of the petitioners. But it was learnt that only the de-facto complainant is in custody of the articles.

4.Perusal of the records shows that on the basis of the earlier complaint given by the mother of the de-facto complainant, the case in CC No.128 of 2015 was registered and was tried by the Judicial Magistrate, Aundipatti. In that case, there was allegation to the effect that the de-facto complainant was kidnapped by the first accused demanding money and in that trial, the de-facto complainant turned hostile and did not support the case. So he was acquitted. After that, it appears that there was a compromise and they were living together. Even though there is an allegation to the effect



the petitioners are in possession of Rs.6,00,000/-, but reading of the undertaking document dated 22/02/2021 shows that it is pertaining to the loan issue.

5. Seeking restitution of conjugal rights, the first petitioner filed petition before the Sub Court, Periyakulam, wherein the second respondent/de-facto complainant has also appeared. Now it is pending. The first petitioner is willing to take the de-facto complainant to the matrimonial home. But why the wife is not willing is not clear on record. It is also submitted that the first petitioner also arranged a house in Bangalore, but the de-facto complainant refused to go to Bangalore. So the facts and circumstances of the case clearly shows that for some other reason, the de-facto complainant is not willing to live with A1. It is a matter for investigation and trial.

6. Considering the above facts and circumstances of the case, this court is inclined to enlarge the petitioners on anticipatory bail with certain conditions. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or on their appearance before the learned Judicial Magistrate No.1, Kulithurai, Kanyakumari District and on each of them executing 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 learned Magistrate concerned and the petitioners shall appear before the respondent police daily at 10.00 am until further orders. The petitioners shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously. The petitioners shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail will stand dismissed.

Sd/-

01/09/2022

/ TRUE COPY /

07/09/2022

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

ER

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



TO

1. THE JUDICIAL MAGISTRATE NO.1,
KULITHURAI, KANYAKUMARI DISTRICT.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
MARTHANDAM,
KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP (MD) No.3203 of 2022
Date :01/09/2022

SP/SVR/SAR II/07/09/2022/4P/5C