



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 13.04.2022

PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.5442 of 2022

1. T.Kalaichelvan
2. T.Jamunarani
3. T.Murugan
4. V.Ganesan

...Petitioners/Accused No.1 to 4

Vs

The State Rep. By,
The Inspector of Police,
All Women Police Station,
Thiruvadanai,
Ramanathapuram District.
(Crime No.9/2021).

... Respondent/Complainant

For Petitioner : Ms.S.Ragaventhre
Advocate.

For Respondent : Mr.T.Senthilkumar
Additional Public Prosecutor

For Intervenor : Mr.P.Mahendran
: Mr.R.Senthilkumar
Mediator

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

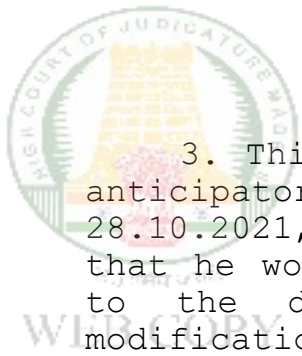
PRAYER :-

For Anticipatory bail in Crime No.9 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners, who apprehend arrest at the hands of the respondent Police, for the offence punishable under Sections 498(A) & 506(i) IPC in Crime No.9 of 2021 on the file of the respondent Police, seek anticipatory bail.

2. The case of the prosecution is that the marriage between the first petitioner and the defacto complainant took place on 14.07.2013. After the marriage, the accused persons demanded more dowry and threatened the defacto complainant. Hence, the present case has been registered.



3. This is the second anticipatory bail petition. The earlier anticipatory bail petition was allowed by this Court, by order dated 28.10.2021, based on the undertaking given by the first petitioner that he would pay a sum of Rs.15,000/- towards monthly maintenance to the defacto complainant and her child. Thereafter, a modification petition was filed to modify the following condition imposed by this Court while granting anticipatory bail:

"7(b) The first petitioner shall file an undertaking affidavit before the respondent Police as well as before the trial Court that he would pay a sum of Rs.15,000/- towards monthly maintenance to the defacto complainant and her child without prejudice to his defence before the trial Court."

Considering the conduct and attitude of the first petitioner, this Court was not inclined to modify the condition and dismissed the modification petition, by order dated 27.01.2021.

4. Now, the petitioners have moved the second anticipatory bail petition that the first petitioner is ready to pay a sum of Rs.5,000/- towards maintenance.

5. When the matter came up for hearing on 24.03.2022, the learned counsel appearing for the petitioners requested this Court to refer the matter for mediation to arrive at an amicable settlement between the parties.

6. At the request of the learned counsel for the petitioners, the matter was referred for mediation. This Court appointed Mr.R.Senthilkumar, learned counsel, as Mediator in this case to mediate the parties and file a report before this Court.

7. Pursuant to the direction of this Court, the Mediator filed his report and submits that the first respondent stated that without any disturbance from the parents of the defacto complainant, he is ready to live with the defacto complainant. But, the defacto complainant has not accepted the suggestion made by the first petitioner. The first petitioner and the defacto complainant stand on their own decision.

8. Considering the fact that it is a matrimonial dispute, the matter was referred for mediation. During the mediation, the defacto complainant, who is the wife of the first petitioner, has not accepted the suggestion made by the first petitioner and she stands on her own decision. Though the first petitioner comes forward to live along with the defacto complainant, she is not ready to live with the first petitioner. Therefore, there is no possibility for re-union.



9. With regard to the maintenance amount, the learned counsel for the defacto complainant submits that the first petitioner is working at a vessel in Mumbai and earning more income and he is also having own houses and properties at Mumbai and also having own house at Salai Gramam Village, Sivagangai District and let out the same for Indian Bank. Therefore, she claims maintenance of Rs.15,000/-. On the contrary, the learned counsel for the petitioners submits that the first petitioner is now unemployed and therefore, he could not be able to pay a sum of Rs.15,000/- towards maintenance and however, he is ready to pay a sum of Rs.5,000/- towards maintenance.

10. This Court, while exercising jurisdiction under Section 438 of the Code of Criminal Procedure, cannot go into the matter and cannot decide the maintenance amount. Therefore, the defacto complainant shall file a maintenance petition before the concerned Court under Section 125 of Code of Criminal Procedure.

11. Accordingly, this Criminal Original Petition is allowed. 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 Judicial Magistrate Court, Thiruvadanai, on condition that the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions 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 Aadhaar card or bank pass book to ensure their identity;

[b]the petitioners shall report before respondent police as and when required for interrogation;

[c]the petitioners shall not tamper with the 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 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]** and



[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-
13/04/2022

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/ /2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE JUDICIAL MAGISTRATE,
THIRUVADANAI.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUVADANAI,
RAMANATHAPURAM DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.PRABHU, Advocate (SR-3503[I] dated 19/04/2022)

+1 CC to M/s.K.PRABHU, Advocate (SR-3354[I] dated 13/04/2022)

ORDER
IN
CRL OP(MD) No.5442 of 2022
Date :13/04/2022

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USK/PN/SAR-II/21.04.2022/4P/7C