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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 17/11/2022

PRESENT

The Hon`ble Mr.Justice A.A.NAKKIRAN

CRL OP (MD) . No.6399 of 2022

Mohamed Abudhahir @ Abuthahir ... Petitioner/Accused No.4

Vs

1. State rep.by
The Inspector of Police,
All Women Police Station,
Thirupparankundram,
Madurai City.
(Crime No.12/2022). ... Respondent/Complainant
- (*) 2. Mrs. Fahmitha Birthous ... 2nd Respondent/Defacto
Complainant
- (*) (R2 suo-motu impleaded as per order
of this Hon'ble Court dated 06.04.2022
in Crl.O.P. (MD) No.6399/2022 by GIJ)

For Petitioner : M/s. Senthil Murugan.C., Advocate.

For 1st Respondent : Mrs.M.Aasha,
Government Advocate (Crl.Side)

For 2nd Respondent : Mr.Sulthan Basha, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.12 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/A4, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 406 and 498(A) IPC in Cr.No.12 of 2022, seeks anticipatory bail.



2.The case of the prosecution is that the de-facto complainant got married the petitioner's younger brother/A1 on 12.01.2022 and they have blessed with a female child on 05.01.2021. After marriage, the petitioner and other accused persons harassed the de-facto complainant by demanding additional dowry. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is the in-law of the de-facto complainant and he is innocent and he has not committed any offence as alleged by the prosecution. He would further submit that A2, A3 and A5 were already released on bail by this Court. Hence, he prays for anticipatory bail.

4.The learned Government Advocate(Crl.Side) would submit it is a matrimonial dispute and the petitioner along with other accused harassed the de-facto complainant by demanding additional dowry. Hence, he strongly opposed to grant anticipatory bail.

5.The learned counsel for the intervenor vehemently opposed for grant of anticipatory bail to the petitioner.

6.Considering the facts and circumstances of the case and also considering the fact that it is a matrimonial dispute between the parties and also the fact that the petitioner is the in-law of the de-facto complainant, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, 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 learned Additional Mahila Court, Madurai, 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 until further orders.

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

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

Sd/-
17/11/2022

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/11/2022
Sub-Assistant Registrar (C.S.I)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

TO

1. THE JUDGE, ADDITIONAL MAHILA COURT,
MADURAI.
2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUPPARANKUNDRAM,
MADURAI CITY.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S. SENTHIL MURUGAN.C. Advocate SR.No.13253

ORDER
IN
CRL OP(MD) No.6399 of 2022
Date :17/11/2022

SP/VR/SAR I/25/11/2022/3P/5C