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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

RESERVED ON : 01/04/2022

PRONOUNCED ON: 08/04/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.6443 of 2021

1.P.Elanchelian
2.P.Ilamathi
3.M.Ramachandran
4.R.Rangaraj
5.Chelladurai
6.Karkulali
7.Uma

... Petitioners/Accused 1 to 7

Vs

State rep.by
The Inspector of Police,
All Women Police Station,
Dindigul.
(Crime No.10 of 2021)

... Respondent/Complainant

For Petitioners: Mr.R.Pon Karthikeyan
for Mr.A.Mohan, Advocate.

For Respondent : Mr.R.Sivakumar,
Government Advocate(Crl. Side).

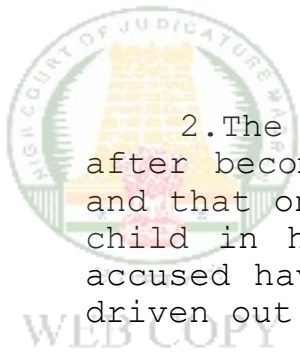
PETITION FOR ANTICIPATORY BAIL Under Section 438 of Cr.P.C.

PRAYER :-

For Anticipatory Bail in Crime No.10 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A.1 to A.7, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 323, 506(1), 342, 313 and 511 IPC, Section 4 of Dowry Prohibition Act and Section 4 of Tamilnadu Prohibition of Women Harassment Act, in Crime No.10 of 2021, seek anticipatory bail.



2.The case of the prosecution is that the defacto complainant after becoming pregnant was sent to her parental home for delivery and that on 11.11.2020, the defacto complainant gave birth to a male child in her parental home and after the birth of the child, the accused have not allowed her to enter into the matrimonial home and driven out her by demanding exorbitant dowry. Hence, the complaint.

3.The petitioners' case is that since the marriage, the defacto complainant had acted differently, that she failed to do any household works and she always wanted to lead a sophisticated life in the matrimonial house, that she used to pick up quarrel even for trivial issues with all the family members, that she had stayed for four months in the matrimonial home and after confirming her pregnancy in the month of March 2020, she was sent to her parental home, that though the father of the first petitioner was very sick, she never paid any visit and failed to take care of her father-in-law, that the first petitioner had borne all the medical expenses during her pregnancy period, that when the first petitioner's father expired on 10.12.2020, the defacto complainant came to the funeral ceremony and created scene in front of other relatives and humiliated her husband and mother-in-law and that when the same was questioned, she raised her voice in high pitch and threatened that she would lodge a false complaint as one of her family member is in the police department and accordingly she has preferred the above complaint falsely implicating the entire members of the first petitioner's family.

4.Admittedly, the marriage between the first petitioner/first accused and the defacto complainant was solemnised on 11.11.2019 and due to their wedlock, they were blessed with a male child.

5.It is not in dispute that the second petitioner is the mother-in-law of the defacto complainant, that the third petitioner is the brother of the first petitioner's father, that the petitioners 4 and 5 are the son of the third petitioner and that the sixth petitioner is the sister-in-law and the seventh petitioner is the maternal aunt of the first petitioner.

6.The learned counsel for the petitioners would submit that all the allegations levelled against the petitioners are vague and baseless and that except the petitioners 1 and 2, all other petitioners, who are the relatives of the first petitioner, are living under separate roof and they have in no way connected with the domestic issues between the husband and wife.

7.When the matter was taken up for hearing on 07.03.2022, the learned counsel for the petitioner submitted that the defacto complainant has preferred a complaint dated 22.12.2020 and thereafter, the petitioners have approached this Court seeking anticipatory bail and the matter was referred to Mediation and that since the matter was not settled, FIR came to be registered and the earlier petition was ordered to be closed giving liberty to file a



fresh petition. He would further submitted that in reply received in response to the RTI application, the Additional Superintendent of Police has given a reply that only on the basis of the complaint lodged on 22.12.2020, the present FIR in Crime No.10 of 2021 came to be registered and that the contents of the FIR and the earlier complaint are entirely different and some of the aspects were not stated in the earlier complaint.

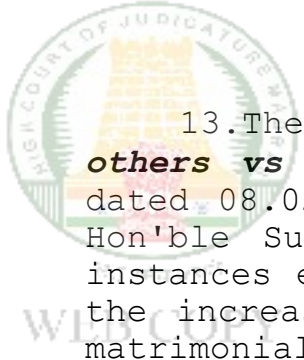
8.It is evident from the records that the petitioners 1 to 3 have earlier filed a petition in CrI.O.P.(MD)No.16095 of 2020 seeking anticipatory bail by alleging that no case was registered against them, considering the nature of the dispute and also the fact that CSR enquiry was pending at that time, this Court referred the matter to the mediation and the mediation centre attached to the District Legal Services Authority, Dindigul, was directed to conduct mediation and send a report before this Court, that subsequently when the petition was taken up for the hearing on 26.04.2021, the learned Government Advocate (Criminal Side) submitted that FIR has been registered in Crime No.10 of 2021 and this Court recording the statement of the learned Government Advocate (Criminal Side), dismissed the petition with liberty to the petitioners therein to work out their remedy in the manner known to law.

9.In pursuance of the direction of this Court, the chairman / Principal District Judge of District Legal Services Authority has submitted a report stating that the mediation was conducted on 09.02.2021, 16.02.2021 and 25.02.2021 and that both the parties along with their counsel attended the Mediation, but the settlement was not reached and the matter was referred back to this Court.

10.Considering the submission made by the learned counsel for the petitioners that the earlier complaint was ordered to be closed, this Court has directed the respondent police to produce the concerned file and accordingly they have produced the file regarding the CSR enquiry in CSR.No.429 of 2020 and it is evident that since the matter was referred to the Mediation, the defacto complainant has given a letter stating that no further action is required at present and recording the same, the complaint was ordered to be closed for the present.

11.No doubt, as rightly pointed out by the learned counsel for the petitioners, though the respondent police has alleged that in the RTI reply that FIR was registered on the basis of the complaint lodged on 22.12.2020, FIR was registered on the basis of the complaint received on 18.04.2021.

12.As rightly pointed out by the learned counsel for the petitioners, the defacto complainant has raised some new allegations in the present complaint but the same does not find place in the earlier complaint.



13.The Hon'ble Supreme Court, in **Kahkashan Kausar @ Sonam and others vs The State Of Bihar and others** in **Crl.A.No.195 of 2022** dated 08.02.2022, after referring to the various judgments of the Hon'ble Supreme Court, has held that this Court has at numerous instances expressed concern over the misuse of Section 498A IPC and the increased tendency of implicating relatives of the husband in matrimonial disputes, without analyzing the long term ramifications of a trial on the complainant as well as the accused, that false implication by way of general omnibus allegations made in the course of matrimonial dispute, if left unchecked would result in misuse of the process of law and that therefore the Hon'ble Supreme Court has warned the Courts from proceeding against the relatives and in-laws of the husband when no *prima facie* case is made out against them.

14.In the present case also, as rightly pointed out by the learned counsel for the petitioners, the defacto complainant has raised general and omnibus allegations.

15.Considering the above facts and circumstances and also the nature of charges levelled against the petitioners and also taking note of the fact that the defacto complainant has only raised general and omnibus allegations against the petitioners and that the petitioners are not having any bad antecedents as stated by the learned Government Advocate (Criminal Side), this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

16.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 of receipt of a copy of this order, before the learned Additional Mahila Court, Dindigul, 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:

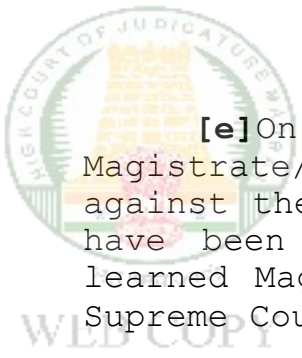
[a]the petitioners and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

[b]the petitioners 1, 3, 4 and 5 shall report before the respondent police daily at 10.30 a.m., for a period of one month and thereafter, as and when required for interrogation and the petitioners 2, 6 and 7 shall report before the respondent police as and when required for interrogation.

[c]the petitioners shall not tamper with the evidence or witness either during investigation or trial.

<https://hcservices.ecourts.gov.in/hcservices/>

[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]**.

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

Sd/-
08/04/2022

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

CSM

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

+ 1. CC to M/S.A.MOHAN, Advocate SR.No.3313

ORDER
IN
CRL OP(MD) No.6443 of 2021
Date : 08/04/2022



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