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CRL OP(MD)A



22

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 10/11/2022

PRESENT

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

CRL OP(MD)No.11212 of 2022

S.Durai

... Petitioner/1st Accused

Vs

The State represented by
The Inspector of Police,
All Women Police Station,
Pudukkottai,
Pudukkottai District.
(Crime No. 1 of 2021)

... Respondent/Complainant

Bharathi

... Petitioner/Defacto Complainant
in CRL MP(MD) No.9237 of 2022

For Petitioner : M/s.Karuppasamy.M,
Advocate.

For Respondent : Mr.M.Veeranthiran,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.1 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/1st accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 498(A) and 506(i) of IPC, in Crime No.01 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner and the defacto complainant are husband and wife. Out of their wedlock, they got three children. After that, the petitioner and other accused continuously harassed the defacto complainant and the ill-advice of his mother, the petitioner has thrown away the defacto complainant from the matrimonial house. Thereafter, the petitioner



and the defacto complainant have been living separately for four years. While so, the defacto complainant came to know that the petitioner got second marriage with the third accused with the help of the other accused. In this regard, on 18.11.2020, the defacto complainant approached the petitioner and enquired the same and the petitioner and other accused made criminal intimidation to the defacto complainant. Hence, the complaint.

3.The learned counsel for the petitioner would submit that there was no harassment or cruelty as alleged by the prosecution. Only with a view to harass the petitioner and his family, a false case has been foisted against them. He would further submit that the defacto complainant voluntarily deserted the petitioner and she has been living separately for the past four years without any valid reason. Further, the occurrence was happened during the year 2020 i.e. 18.11.2020, whereas, the complaint was lodged only on 07.01.2021 and there was no explanation for delay. The petitioner is an innocent person and he has not committed any offence as alleged by prosecution. Hence, he may be granted anticipatory bail.

4.The learned Government Advocate (crl.side) appearing for the respondent police would submit due to continuous harassment, the defacto complainant forced to left the matrimonial home. Thereafter, the petitioner married the third accused illegally. He would further submit that in this case, till now, five witnesses were examined and investigation is not yet completed. Hence, he opposed for grant of anticipatory bail to the petitioner.

5.The learned counsel appearing for the intervener vehemently opposed for grant of anticipatory bail to the petitioner stating that during the year 2016, the defacto complainant forced to left the matrimonial home and she is unable to maintain herself as well as the three children, which constrains the defacto complainant to file a petition seeking maintenance against the petitioner and the learned Judicial Magistrate awarded a sum of Rs.15,000/- as maintenance. Till now, the petitioner did not pay single pie to her. He would further submit that if the petitioner is enlarged on anticipatory bail, definitely he would tamper the evidences.

6. Considering the facts and circumstances of the case and also considering the nature of dispute between the parties and five witnesses have been examined so far, this Court is inclined to grant anticipatory bail to the petitioner.

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 Judge, Mahila Court, Pudukkottai, 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



who intends to arrest or to the satisfaction of the 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.

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

(e) the petitioner shall not abscond either during investigation or trial;

(f) 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;

(g) the respondent police is directed to complete the investigation and file a final report within one month from the date of receipt of a copy of this order.

sd/-

10/11/2022

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

TO

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

+1. CC to M/S.KARUPPASAMY M Advocate SR.No.12833

ORDER

IN

CRL OP(MD) No.11212 of 2022

Date :10/11/2022

SS/VR/SAR I/21.11.2022/ 3P/ 5C

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