



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 17.08.2022

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI
CRL OP(MD). No.11423 of 2022

WEB COPY

Benjamin

... Petitioner/1st Accused

Vs

State Rep. by
The Inspector of Police,
All Women Police Station,
Kanyakumari,
Kanyakumari District.
(Crime No.8 of 2021)

... Respondent/Complainant

For Petitioner : Mr.G.Aravinthan, Advocate.
For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

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

PRAYER :-

For Anticipatory bail in Crime No.8 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A1, who apprehends arrest at the hands of the respondent Police for alleged offence punishable under Sections 498 (A), 406 IPC r/w. Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act r/w. Sections 3(1), 4 and 6 of DP Act, in Crime No.8 of 2021 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner is the husband of the defacto complainant. The marriage between the petitioner and the defacto complainant was solemnized on 28.08.2020. After the marriage, the petitioner along with other accused harassed the defacto complainant by demanding additional dowry and drove her out of the matrimonial home. Hence, the complaint.

3.This is the second anticipatory bail petition. When the first anticipatory bail petition filed by the petitioner in CrI.O.P. (MD)No.16644 of 2021, the learned counsel appearing for the petitioner claimed that the petitioner is an innocent and he has been falsely implicated in this case. He further claimed that all the gold jewels and sreethana articles were returned during the enquiry conducted by the respondent Police and the defacto



complainant is suffering with epilepsy disease, which was suffered by the defacto complainant's parents and they married her to the petitioner.

4. However, the learned Additional Public Prosecutor submitted that the petitioner, in order to avoid maintaining his wife and children, abused and assaulted them. He further submitted that the petitioner is not ready to pay any maintenance to his wife.

5. Considering the conduct and attitude of the petitioner, this Court, by order dated 02.11.2022, dismissed the first anticipatory bail petition filed by the petitioner.

6. Now, the petitioner has come forward with an affidavit stating that he will pay the interim maintenance of Rs.5,000/- (Rupees five thousand only) on the 5th day of every English calendar month, till the final disposal of D.V.O.P.No.1 of 2022 without prejudice to his defence in the said proceedings.

7. Considering the facts and circumstances of the case and also considering the affidavit filed by the petitioner that he will pay a sum of Rs.5,000/- towards interim maintenance to the defacto complainant and her children, this Court is inclined to grant anticipatory bail to the petitioner.

8. Accordingly, this Criminal Original Petition is allowed. The petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Additional Mahila Court, Nagercoil, Kanyakumari District, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum 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 Aadhaar card or bank pass book to ensure their identity;

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

[c] the petitioner shall pay a sum of Rs.5,000/- (Rupees five thousand only) per month towards interim maintenance to the defacto complainant and her children, on the 5th day of every English Calendar month, till the disposal of D.V.O.P.No.1 of 2022.

[d] the petitioner shall not tamper with the evidence or witness either during investigation or trial;



[e] the petitioner shall not abscond either 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] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

17/08/2022

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

TO

- 1 THE JUDICIAL MAGISTRATE, ADDITIONAL MAHILA COURT, NAGERCOIL, KANYAKUMARI DISTRICT.
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, KANYAKUMARI DISTRICT AT NAGERCOIL.
 - 3 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, KANAYKUMARI, KANAYAKUMARI DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.G.ARAVINTHAN, Advocate (SR-8645[I] dated 18/08/2022)

ORDER

IN

CRL OP(MD) No.11423 of 2022

Date :17/08/2022

OGY

RS/VR/SAR.4 (23.08.2022) 3P-6C