



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

Date : 20.10.2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.16732 of 2022

WEB COPY

Munish Divakar @ Muneeshthivakar ...Petitioner/ Accused No.1

Vs

State represented by
The Inspector of Police,
All Women Police Station,
Aundipatti,
Theni District.
(Crime No.5 of 2022)

... Respondent/ Complainant

For Petitioner : Mr.P.Senguttuarasan

For Respondent : Mr.P.Kottai Chamy
Government Advocate (Crl. side)

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

PRAYER :-

For Anticipatory Bail in Crime No.5 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A.1, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 498(A), 495 and 506(2) IPC and Section 4 of Dowry Prohibition Act, in Crime No.5 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. Admittedly, the marriage between the petitioner and the de-facto complainant was solemnized on 10.09.2021, that the accused 2 and 3 are the parents, that the fourth accused is the brother and that the fifth accused is the sister of the petitioner.

3. The case of the prosecution is that since the petitioner was working as a Deputy Jailor, the petitioner and other accused had demanded 100 sovereigns of gold jewels and srithana articles worth about Rs.10,00,000/- (Rupees Ten Lakhs only) as dowry, that the parents of the de-facto complainant have given 40 sovereigns of jewels and five sovereigns of jewels to the petitioner and srithana



articles worth about Rs.7,00,000/- (Rupees Seven Lakhs only) at the petitioner and other accused have not allowed the de-facto complainant to have marital life and directed her to bring the remaining 50 sovereigns of jewels as demanded by them, that the de-facto complainant subsequently, came to know that the petitioner is having illicit affairs with one Saranya, who was then working as Assistant Jailor, Mannarkudi Sub Jail, that the other accused by suppressing the relationship between the petitioner and the said Saranya, had arranged marriage and after receiving the dowry as mentioned above, had conducted the marriage of the petitioner with the de-facto complainant, that when the illicit affairs of the petitioner was questioned, the petitioner and other accused had threatened her not to disclose about the same to anybody and in case if she reveals the same, they would kill her and buried her in the home itself and informed the outside that she had eloped with somebody, that they have also not provided food to her and she was kept in a locked separate room, that the complainant had subsequently came to know that the petitioner is also having illicit relationship with some other women and that therefore, she was forced to leave matrimonial house within one month from the date of marriage. Hence, the complaint.

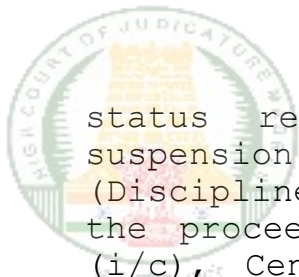
4. The case of the petitioner is that he is innocent and he has not committed any offence as alleged by the prosecution and that he has been falsely implicated in the above case.

5. No doubt, the petitioner has filed a petition for anticipatory bail along with other accused 2 to 5 in CrI.O.P.(MD) No.4409 of 2022 and this Court has granted anticipatory bail to the accused 2 to 5, but dismissed the application so far as the present petitioner is concerned. Subsequently, the petitioner's another application for anticipatory bail in CrI.O.P.(MD)No.11071 of 2022 was also ordered to be dismissed vide order dated 12.08.2022.

6. When the earlier petition was pending, in pursuance of the directions of this Court, the Superintendent of Prison, Central Prison, Madurai, has sent a letter to the respondent police stating that the petitioner was in medical leave and since the petitioner has sent an extension of leave application, the same was forwarded to the District Head Quarters, Government Hospital, Virudhunagar District and that in view of the registration of the case, a Memo was issued and after getting explanation, Departmental proceedings were initiated under Section 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and the same is pending.

7. It was brought to the notice of this Court that the petitioner has failed to appear for the hearing in Departmental Proceedings and that he has been remaining absconding.

8. When the matter was taken up for hearing on 19.10.2022, the Superintendent of Prison, Central Prison, Madurai, has filed a



status report stating that the petitioner was placed under suspension under Rule No.17(e) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules with the effect from 13.10.2022 as per the proceedings dated 13.10.2022 of the Superintendent of Prison (i/c), Central Prison, Madurai and they have also produced the proceedings of the Superintendent of Prison dated 13.10.2022 suspending the petitioner from service.

9. The learned counsel appearing for the petitioner would submit that after the dismissal of the second petition, the petitioner's sister, who was also an accused, had committed suicide, that the petitioner's father he is now in death bed and that the petitioner's presence in the family is very much necessary to take care of his ailing father. He would further submit that subsequent to the dismissal of the anticipatory bail petitions, the petitioner and the defacto complainant, as per the advise of the elders of the family and well-wishers, have entered into a settlement, that they have executed a document dated 10.10.2022 dissolving their marriage and that they have also agreed to file a joint petition for divorce under Section 13(B) of the Hindu Marriage Act for divorce on mutual consent.

10. As rightly pointed out by the learned Government Advocate (Criminal Side), though the defacto complainant has entered into appearance in the earlier two anticipatory bail petitions, she has not turned up now.

11. The learned Government Advocate (Criminal Side) would further submit that investigation is almost completed and that the petitioner is not having any other previous case.

12. Considering the above facts and circumstances and also the facts that the other co-accused have already been granted anticipatory bail by this Court and that the petitioner is not having any bad antecedents and also taking note of the fact that he was placed under suspension and disciplinary proceedings have already been initiated against him, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

13. Accordingly, 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, Aundipatti, Theni 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 passbook to ensure their identity.

[b]the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.

[c]the petitioner shall not tamper with the 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]**.

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

sd/-

20/10/2022

/ TRUE COPY /

/10/2022

Sub-Assistant Registrar (C.S.)
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 Judicial Magistrate,
Aundipatti, Theni District.
2. -do-Through The Chief Judicial Magistrate, Theni.
3. The Inspector of Police,
All Women Police Station,
Aundipatti,
Theni District.



4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

WEB COPY

+1. CC to M/S.SENGUTTUARASAN.P Advocate SR.No.11866

ORDER

IN

CRL OP(MD) No.16732 of 2022

Date :20/10/2022

RD/SSS(27/10/2022) 5P 6C