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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
DATED : 26.09.2022
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.16675 of 2022

Sathyaraj

... Petitioner/Accused No.2

Vs

1.The State rep.by
The Inspector of Police,
All Women Police Station,
Karaikudi.
Crime No.3 of 2022.

... Respondent/Complainant

2.Krithika

... Respondent/Defacto Complainant

For Petitioner : Mr.VR.SHANMUGANATHAN,
Advocate.

For Respondent 1 : Mr.P.KOTTAICHAMY,
Government Advocate(Criminal Side)

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

PRAYER :- For Anticipatory Bail in Crime No.3 of 2022 on the file of the Respondent Police.

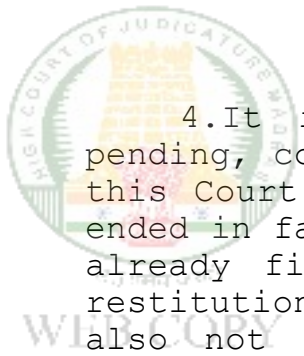
ORDER : The Court made the following order :-

The petitioner/Accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 323 and 498(A) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, in Crime No.3 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner along with other accused have demanded dowry from the de-facto complainant and harassed her. Hence, the complaint.

3.It is evident from the records that the petitioner and his father have earlier filed an application for anticipatory bail in CrI.O.P(MD)No.3034 of 2022 and this Court vide order, dated 20.04.2022, has granted anticipatory bail to the father of the petitioner, but dismissed the application so far as the petitioner is concerned.

<https://www.mhc.tn.gov.in/judis>



4.It is not in dispute that when the earlier petition is pending, considering the submissions made by the counsels on record, this Court referred the matter to mediation and that the mediation ended in failure. It is also not in dispute that the petitioner has already filed a petition in H.M.O.P.No.1267 of 2021 seeking for restitution of conjugal rights and that the same is pending. It is also not in dispute that the de-facto complainant has filed a transfer petition in Tr.C.M.P.(MD)No.431 of 2021 and the proceedings were stayed by this Court, vide order, dated 06.10.2021.

5.The learned counsel for the petitioner would submit that after obtaining orders from this Court, the de-facto complainant has sent a false representation to the higher police officials and thereafter, filed a petition under Section 156(3) of Cr.P.C. in CrI.M.P.No.3559 of 2021 before the learned Judicial Magistrate Court, Karaikudi and based on the order of the learned Magistrate, FIR came to be registered on 19.01.2022. He would further submit that the de-facto complainant had suppressed all the previous complaints and gave a false representation and subsequently, filed a petition under Section 156(3) of Cr.P.C. and that thereafter, as per the directions of the learned Magistrate, the case was registered.

6.The learned counsel for the petitioner would submit that the defacto complainant has originally lodged the complaint on 17.03.2021; that the said complaint was enquired; that the issue was compromised between the parties and that the petitioner as agreed, had gone to Karaikudi to the parental home of the complainant and was living there, that since they were living jointly, the complaint was closed on the request of the complainant on 22.04.2021 and that thereby all the allegations levelled by the complainant before that period stand condoned by her act of accepting the petitioner and living together with him and later withdrawing the complaint.

7.The learned counsel for the petitioner would further submit that subsequently the defacto complainant has lodged another complaint on 11.08.2021 before the Karaikudi All Women Police Station and followed by another complaint through online, dated 26.10.2019 to the District Superintendent of Police, Sivagangai.

8.As already pointed out, since there was no action, according to the defacto complainant, she filed a petition under Section 156 (3) Cr.P.C before the jurisdictional Magistrate and as per the order passed by the learned Magistrate, the present FIR came to be registered.

9.The learned Government Advocate (Criminal Side) would submit that the investigation is almost completed.

10.As rightly contended by the learned counsel for the petitioner, the defacto complainant in her complaint has
<https://www.courtsofindia.org/> admitted that after entering into compromise and after



resumption of their co-habitation, she had withdrawn her complaint and thereafter, the present FIR came to be registered in pursuance of the direction given by the jurisdictional Magistrate on the petition filed under Section 156(3) Cr.P.C.

11. Considering the facts and circumstances of the case and also the fact that the second accused has already been granted anticipatory bail by this Court and that the investigation is almost completed as stated by the learned Government Advocate (Criminal Side) and also taking note of the fact that the petitioner is not having any bad antecedents, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

12. 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, Karaikudi, 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 the respondent police daily at 10.30 am., 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.

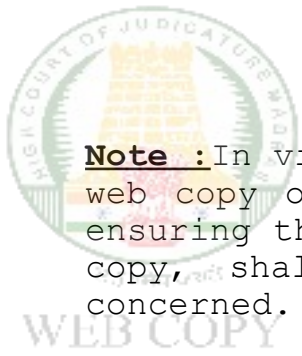
sd/-

26/09/2022

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



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
KARAIKUDI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KARAIKUDI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.16675 of 2022

Date :26/09/2022

das

SA/GB/SAR.1/29.09.2022/4P/5C