



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

RESERVED ON: 05.01.2022

PRONOUNCED ON: 10.01.2022

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.20532 of 2021

1. Amutha,

2. Sathiskumar,

... Petitioners/Accused Nos.1 & 2

Vs

The State Rep. by,
The Inspector of Police,
City Crime Branch,
Trichy City.
(Crime No.22/2021).

... Respondent/Complainant

R.Varalakshmi

...Petitioner/Intervenor/Respondent
/Defacto Complainant
in Crl MP(MD)No.11941/2021

For Petitioner : Mr.V.Illanchezian, Advocate.

For Respondent : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

For Intervenor : Mr.S.M.Deenadayalan, Advocate

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

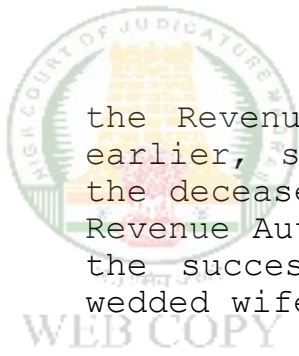
PRAYER :-

For Anticipatory Bail in Crime No.22 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioners/Accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 417, 420, 468 and 471 IPC, in Crime No.23 of 2021, on the file of the respondent police, seek anticipatory bail.

2.The Defacto complainant, who is the wife of one Radhakrishnan, has alleged that the petitioners claiming to be the wife and son of the said Radhakrishnan have approached and applied



the Revenue Authorities, where the said Radhakrishnan was working earlier, seeking service benefits pension and other claims due to the deceased Radhakrishnan and since a counter claim was raised, the Revenue Authorities have directed the defacto complainant to produce the succession certificate to establish that she is the legally wedded wife of the deceased.

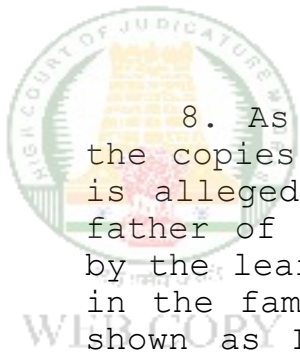
3.The learned Additional Public Prosecutor has submitted a copy of report sent by the Tiruchirappalli Corporation and whereunder, they have informed that on verification of the birth certificate of second petitioner alleged to have been produced by the second petitioner, it was found that there were no such entries in the birth and death register maintained by the Corporation and no such certificate was issued by the Trichirappalli Corporation.

4. This is the second anticipatory bail petition and earlier petitioner filed by the petitioners in Crl.O.P.(MD)No.17317 of 2021 was dismissed by this Court on 01.12.2021.

5. The learned Counsel for the petitioners would submit that at the time of moving the first anticipatory bail application, it was not canvassed before this Court that the first petitioner was living with the deceased Radhakrishnan as second wife and the same was recorded in the family card issued by the Civil Supplies Corporation and the Aadhar card issued by the Government of India and the receipt issued for the payment of charges for the cremation of the deceased Radhakrishnan. The petitioners have filed additional typed set producing the copies of aadhar cards of the petitioners, family card, the receipt issued by the electric crematorium of Trichirappalli Corporation and the paper publication, in their attempt to show that the first petitioner is the second wife and the second petitioner is the son of the deceased Radhakrishnan.

6. The learned Counsel for the intervenor would submit that the petitioners have not shown that there was a valid and legal divorce between the deceased and the defacto complainant. As rightly contended by the learned Counsel for the petitioners, the intervenor in her petition, has specifically stated that she had difference of opinion with her husband Radhakrishnan and both of them were living separately, that she had filed maintenance case, claiming maintenance for herself and for her daughter and that the same was granted in M.C.No.233 of 1996, on the file of II Additional Family Court, Chennai.

7. The learned Additional Public Prosecutor appearing for the State has specifically disputed the genuineness of the birth certificate of the second petitioner and according to him, as per the report given by the Trichirappalli Corporation that there were no birth entries of the second petitioner in the register maintained by them and no such birth certificate was issued by them.



8. As already pointed out, the petitioners have also produced the copies of their aadhar cards, whereunder the said Radhakrishnan is allegedly shown as the husband of the first petitioner and the father of the second petitioner. No doubt, as already pointed out by the learned Additional Public Prosecutor appearing for the State, in the family card, the name of the first petitioner's husband was shown as Late.Radhakrishnan and according to him, there is every possibility of fabricating the family card, after the death of the said Radhakrishnan for making false claim.

9. As already pointed out, the petitioners have also produced the burial ground report of the death by the Trichirappalli Corporation and also receipt issued at electric crematorium and whereunder the second petitioner is allegedly shown as the informant and the person who had paid the charges at electric crematorium. The petitioners have also produced the paper publication allegedly issued by the second petitioner informing the death of his father Radhakrishnan.

10. Though the learned Counsel for the intervenor has alleged that all the documents have been created for the purpose of making false claim, that cannot be gone into at this stage. Moreover, who are the legal heirs of the deceased Radhakrishnan and who are entitled to get the death benefits are the aspects, that can be gone into only by the appropriate forum and not by the Bail Court. Considering the above facts and circumstances, this Court is of the clear view that the custodial interrogation of the petitioners is not at all necessary.

11. Considering the nature of the charges allegedly levelled against the petitioners and taking note of the fact that the custodial interrogation of the petitioners is not at all necessary and that the petitioners are not having any bad antecedents as stated by the learned Additional Public Prosecutor, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

12. Accordingly, the petitioners are ordered to be released on bail in the event of their arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.I, Trichirappalli 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 respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition 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 Aadhar card or Bank pass Book

<https://hdservices.mca.gov.in/hdservices/> identity;



(b)the petitioners shall report before the respondent police daily at 10.30a.m., until further orders;

(c)the petitioners shall not tamper with evidence or witness either during investigation or trial;

(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]***; and;

(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
10/01/2022

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

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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 NO.I
TRICHIRAPPALLI.
- 2 DO THROUGH:THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
- 3 THE INSPECTOR OF POLICE
CITY CRIME BRANCH, TRICHY CITY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.20532 of 2021
Date :10/01/2022