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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

RESERVED ON : 29/03/2022

PRONOUNCED ON : 05/04/2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP (MD) . No.20535 of 2021

Sanklikaruppu

... Petitioner/1st Accused

Vs

1. State rep.by

The Inspector of Police,
All Women Police Station,
Thallakulam,
Madurai City,
Madurai.
Cr.No.47 of 2021.

... Respondent/Complainant

2. C.Muthurathnam

(R.2 suo motu impleaded
as per order of this Hon'ble Court
dated 17.02.2022 in Crl.OP (MD) No.
20535/2021 by KMSJ)

... Respondent No.2

For Petitioner : M/s. Villavankothai.T, Advocate.

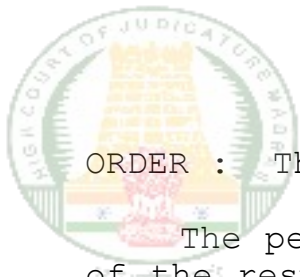
For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

For Intervenor : Mr.M.Jegadeesh Pandian. Advocate

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

PRAYER :-

C-33AB For Anticipatory Bail in Crime No.47 of 2021 on the
file of the Respondent police.



ORDER : The Court made the following order :-

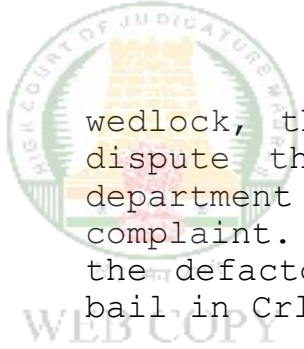
The petitioner/Accused No.1, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 498(A), 506(i) I.P.C., and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 in Crime No.47 of 2021, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant's father gave 25 sovereigns of gold jewels and 5 sovereigns of gold to her husband and sreethana articles worth about Rs.3,00,000/- to the first accused, that due to the wedlock two female babies were born, that the petitioner's family had then tortured the defacto complainant and her babies without even giving any food, that the defacto complainant, due to the harassment, had taken her babies and came to her police quarters, that thereafter the first accused came to the police quarters, that the first accused was having illegal intimacy with some other women and that the first accused had tried to kill the defacto complainant. Hence, the present complaint.

3. The petitioner's case is that the respondent police without conducting any enquiry, has registered the F.I.R., hurriedly, that the defacto complainant is a police constable and hence, the enquiry was conducted only to favour her, that in the first enquiry conducted on 20.08.2021, the defacto complainant had beaten the first accused in front of the enquiry officer itself, that the first accused had been living with the defacto complainant in the police quarters for the past seven years and two children were born to them, that there is no question of cruelty or demand of dowry by the petitioner, that the petitioner has already filed a divorce petition in H.M.O.P.No.791 of 2021 and the same is pending before the Family Court, Madurai, that after filing of the above petition, as a counter blast, the present complaint came to be lodged and that the accused 2 to 7 were already granted anticipatory bail by this Court in CrI.O.P.(MD)No.17465 of 2021, vide order dated 16.11.2021.

4. The learned Counsel for the petitioner would submit that the petitioner is innocent and law abiding citizen, that he is no way connected with the alleged offences, that the respondent police without adopting the usual procedures for the matrimonial disputes and without referring the matter to the Social Welfare Department, they have registered the F.I.R., that after registering the F.I.R., they have sent the summons under Section 41-A Cr.P.C., with sole intention to arrest and harass the petitioner and that since the petitioner has already filed a divorce petition and the same is pending, the defacto complainant has purposely lodged the above complaint falsely implicating the petitioner and his family members.

5. Admittedly, the marriage between the petitioner and the defacto complainant was solemnized on 12.03.2014 and due to their



wedlock, they were blessed with two female babies. It is not in dispute that the defacto complainant is working in the police department and she was working as Gr.I. Constable at the time of complaint. Admittedly, the accused Nos.2 to 7 are the in-laws of the defacto complainant and they were already granted anticipatory bail in CrI.O.P.(MD)No.17465 of 2021, vide order dated 16.11.2021.

6. Considering the nature of the dispute, this Court has referred the matter to Mediation and Conciliation centre and subsequently the mediation ended in failure. Thereafter, this Court has suo motu impleaded the defacto complainant as second respondent and notice was sent to her. Mr.M.Jegadeesh Pandian, learned Counsel has entered into appearance for the defacto complainant.

7. It is also not in dispute that the petitioner has already filed a petition in H.M.O.P.No.791 2021 seeking divorce and the same is pending on the file of the Family Court, Madurai. The main contention of the petitioner is that after filing of the divorce petition, the defacto complainant, as counter blast, has preferred the present complaint and only on that basis, F.I.R., came to be registered.

8. No doubt, the defacto complainant in her complaint has raised many allegations against the petitioner and in-laws. She has also stated that she was attacked by them. But, as rightly contended by the learned Counsel for the petitioner, she has not preferred any complaint at that time. Even according to the defacto complainant, she was residing in the police quarters along with the petitioner for some years. The learned Counsel for the petitioner would further submit that the defacto complainant alone had been attacking the petitioner and even at the time of enquiry, before the police station, she had beaten the petitioner. As rightly contended by the learned Counsel for the petitioner, the defacto complainant has raised general and omnibus allegations.

9. Considering the above facts and circumstances and the nature of charges levelled against the petitioner and also the fact that the accused Nos.2 to 7 were already granted anticipatory bail by this Court and that the petitioner is not having any bad antecedents as stated by the learned Government Advocate (CrI.Side), this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is ordered to be released on bail in the event of his 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, Additional Mahila Court, Madurai 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 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 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 10.30a.m., for period of 30 days and thereafter as and when required for interrogation.

(c) the petitioner shall not tamper with 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 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/-
05/04/2022

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/ /2022
Sub-Assistant Registrar (C.S.IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

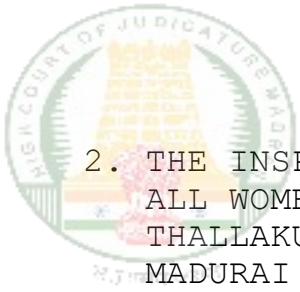
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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

<https://hcservices.ecourts.gov.in/hcservices/>

1. THE JUDGE, ADDITIONAL MAHILA
COURT, MADURAI.



2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THALLAKULAM,
MADURAI CITY.

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3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP (MD) No.20535 of 2021
Date :05/04/2022

SP/JM/SAR IV/07/04/2022/5P/4C