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CRL OP(MD). A



22

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/11/2022

PRESENT

The Hon`ble Mr.Justice A.A.NAKKIRAN

CRL OP(MD). No.20117 of 2022

1. P.Vigneshkanna
2. P.Sivakami
3. N.Palanisamy
4. P.Vidhyasagar
5. V.Maharajothi ... Petitioners/Petitioners /Accused No.1 to 5

Vs

The State Rep.by
The Inspector of Police,
All Women Police Station,
Marthandam, Kanyakumari District.
(Crime No.11 of 2022).

... Respondent/Complainant

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

For Respondent : M/s.M.Aasha,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.11 of 2022 2022 on the file
of the Respondent Police

ORDER : The Court made the following order :-

The petitioners/A1 to A5, who apprehend arrest at the hands of
the respondent police for the offences punishable under Sections
498(A) and 406 of IPC and Section 3(1), 4, 6 of Dowry Prohibition
Act, 1961 in Crime No.11 of 2022, seek anticipatory bail.

<https://www.hc.madras.gov.in/Crime>



2.The case of the prosecution is that the first accused and the defacto complainant are the husband and wife. They loved each other and performed their marriage themselves without getting consent from their parents. At the time of marriage, she was having 4 ½ sovereigns of gold jewel, which has been taken from her home. Thereafter, they started to live their matrimonial life in the house of the first petitioner as joint family. From the 2 months of marriage, all the petitioners harassed the defacto complainant by demanding dowry. Without bearing their harassment, she consumed poison. After treatment, she recovered. At that time, the mother of the defacto complainant accepted their marriage. Again, the petitioners demanded jewel, money and property from the defacto complainant. On their demand, the mother of the defacto complainant gave 35 sovereigns of gold jewels and Thali. In the mean time, she become pregnant. Again, they demanded the amount of Rs.10 lakh from the defacto complainant. When the same was not given, they harassed her and the first petitioner kicked on her stomach. Due to which, the womb was aborted. Again, she become pregnant and a female child was born. After 2 months of child, all the petitioners came to the the house of the defacto complainant and harassed her by demanding a sum of Rs.8 lakh for the purpose of getting government job for the fourth accused. The first accused demanded the above said amount and also assaulted her. When the mother of the defacto complainant prevent the same, he also assaulted her and took away the 2 months child. On complaint, the child was restored. After that, the mother of the defacto complainant arranged the above said amount of Rs.8 lakh. Due to which, the first petitioner started to live with the defacto complainant at Bangalore. Thereafter, he pledged the jewels of the defcto complainant for a sum of Rs.4 lakh for the purpose of his relative marriage. When that was questioned by the defacto complainant, there was assault. Further, A1 & A2 received a sum of Rs.3 lakh from the sister of the defacto complainant as hand loan for their debt. Again, they demanded a sum of Rs.10 lakh and property. Hence, she lodged a complaint the complaint. On complaint, it was found that A5, who is the wife of A4 also made trouble to the defacot complainant through telephone. With these allegations, she filed a complaint under Section 156(3) Cr.P.C and that was forwarded to the police, over which, the present case has been registered.

3.The learned counsel for the petitioners would submit that this is the second anticipatory bail application. Earlier anticipatory bail application filed by the petitioners in Crl.OP(MD) No.3204 of 2022 was allowed by this Court, on 01.09.2022. Even though anticipatory bail was granted, the petitioners could not able to arrange such 10 sureties in time. Hence, they filed extension of time petition in Crl.MP(MD)No.11733 of 2022 in Crl.OP (MD)No.3203 of 2021. That was also allowed on 29.09.2022. Again, they could not able to arrange the above said sureties. After a lapse of time, they filed this second anticipatory bail application. Hence, he prays for grant of anticipatory bail to the petitioners.



4.The learned Government Advocate (Crl.Side) would submit that 4 witnesses have been examined. There was specific allegation as against the petitioners. Hence, he strongly opposed to grant anticipatory bail to the petitioners.

5.Considering the facts and circumstances of the case and also considering the fact that it is a matrimonial issue and 4 witnesses have been examined, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

6.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, Kulithurai, Kanyakumari District, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/-(Rupees Ten Thousand only) **with two common sureties** each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions 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 to ensure their identity;

(b)the petitioners shall report before the respondent police daily at 10.30 am 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 abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

15/11/2022

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/11/2022

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

DSS



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,
Kulithurai, Kanyakumari District..
2. Do-Through The Chief Judicial Magistrate,
Kanyakumari District.
3. The Inspector of Police,
All Women Police Station, Marthandam,
Kanyakumari District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.T.THIRUMURUGAN, Advocate (SR-13166[I] dated 17/11/2022)

ORDER

IN

CRL OP(MD) No.20117 of 2022

Date :15/11/2022

RD/SSS/SAR-III(24/11/2022) 4P 6C