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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19/12/2022

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.21832 of 2022

Subbiramani, .. Petitioner/Accused No.1

Vs

State Rep.by
The Sub Inspector of Police,
All Women Police Station,
Srivilliputhur,
Virudhunagar District
(Crime No.18 of 2022). ... Respondent/ Defacto Complainant

For Petitioner : M/s.Ajmal Khan S A, Advocate.

For Respondent : Mr.A.Albert James,
Government Advocate (Crl.Side)

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

PRAYER :-

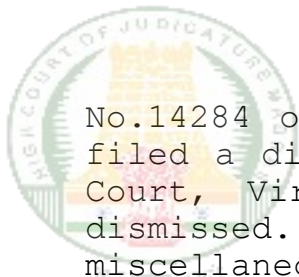
For Anticipatory Bail in Crime No.18 of 2022 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioner/A1, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 498(A) and 324 IPC and Section 4 of Dowry Prohibition Act, in Cr.No.18 of 2022, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner and the defacto complainant are husband and wife. The petitioner and his family members harassed the defacto complainant by demanding additional dowry. Hence, the complaint.

3. The learned counsel for the petitioner would submit that this is the second anticipatory bail petition and the earlier one was dismissed by this Court on 10.10.2022 in Crl.O.P(MD)

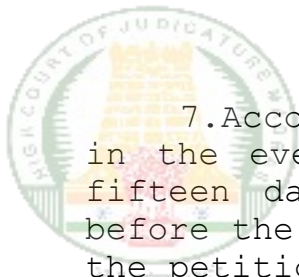


No.14284 of 2022. He would further submit that the petitioner had filed a divorce petition in H.M.O.P.No.4 of 2018 before the Family Court, Virudhuagar District at Srivilliputtur and the same was dismissed. Against which, the petitioner preferred a civil miscellaneous appeal in C.M.A.(MD)No.864 of 2021 before this Court and the same is still pending. In the meanwhile, the de-facto complainant filed a petition in D.V.M.C.No.2 of 2018 before the Judicial Magistrate, Andipatti and the same is also pending. Thereafter, the de-facto complainant lodged a complaint before the respondent police and the same was registered in Crime No.23 of 2021 against the petitioner and his family members and in that case, A2 to A4 have obtained anticipatory bail before the Sessions Court. Further, the de-facto complainant created problems and also damaged the petitioner's two wheeler. Hence, the petitioner gave number of complaints before the respondent police against the de-facto complainant and the same were registered in CSR Nos.675 of 2021 and 583 of 2021. Further, the petitioner filed a writ petition in W.P. (MD)No.5467 of 2022 before this Court and the same is also pending. Pending D.V.M.C.No.2 of 2018, the de-facto complainant foisted the present false complaint against him. He would further submit that initially complaint has been lodged before the Andipatti police station and later it has been transferred to the file of the All Women Police Station, Srivilliputhur. He would further submit that the defacto complainant in the complaint had suppressed pendency of the C.M.A(MD) No.864 of 2021 before this Court. He would further submit that the defacto complainant has also made false allegation stating that the petitioner is ready to marry another woman and he also threatened her that he will marry another woman. He would further submit that the petitioner is ready to file an affidavit before the learned Magistrate that he will not marry any one till the CMA(MD) No.864 of 2021 is disposed of and he would submit that the entire complaint is exaggerated. Hence, he prays for anticipatory bail.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner and his family members have made false allegations against the defacto complainant and had filed HMOP No.4 of 2018 and it was dismissed. Thereafter the petitioner and his family members have demanded additional dowry and also the petitioner threatened the defacto complainant that he will marry another women, hence he strongly opposed to grant anticipatory bail to the petitioner.

5. Heard. Perused the materials available on record including the First Information Report.

6. Taking into consideration the facts and circumstances of the case and also considering the fact that it is a case of matrimonial dispute between the parties, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.



7. Accordingly, the petitioner is ordered to be released in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the **Additional Mahila Court, Srivilluputhur** on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed 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 10.30 am for a period of two weeks and thereafter every saturday at 10.30 am., until further orders.

[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 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 229A IPC.

sd/-
19/12/2022

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/12/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV
TO

1 THE JUDGE,
ADDITIONAL MAHILA COURT, SRIVILLIPUTHUR.



2 THE SUB INSPECTOR OF POLICE
AWPS POLICE STATION,
SRIVILLIPUTHUR,
VIRUDHUNAGAR DISTRICT

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

+1. CC to M/S.AJMAL KHAN S A Advocate SR.No.15137(I)

ORDER

IN

CRL OP(MD) No.21832 of 2022

Date :19/12/2022

PKP/MMS/SAR-1/27.12.2022/4P/5C