



Crl.O.P.No.11627 of 2023

A.D.JAGADISH CHANDIRA, J.,

The petitioner, who apprehends arrest at the hands of the respondent police for the offence punishable under Sections 498(A), 506 (i) of IPC and Section 4 of Dowry Prohibition Act r/w Section 114 of IPC, in C.C.No.157 of 2017, pending on the file of the learned Munsif cum Judicial Magistrate, Portnovo, in connection with Crime No.5 of 2016, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Nivetha is that she got married to the petitioner on 21.08.2015 and at the time of marriage, 60 sovereigns of jewels, 4 kilo of Silver articles, Car and other household articles were given. The further allegation is that the accused along with his in-laws had body shamed her and had harassed her and demanded further dowry from her and intimidated her and driven her out of the matrimonial home. Hence, the case.

3. The respondent after completion of investigation has filed the final report and the case has been taken up for trial in C.C.No.157 of 2017. Since



the petitioner did not appear before the Court, the trial Court had issued a Non-Bailable Warrant of arrest and the petitioner has approached this Court seeking anticipatory bail.

4. The learned counsel for the petitioner would submit that the petitioner is the husband of the defacto complainant. He would submit that due to a matrimonial dispute, the petitioner and the defacto complainant are living separately. Meanwhile, the defacto complainant has also filed an application for divorce and she has also obtained ex-parte divorce in M.O.P.No.136 of 2020 before the learned Family Court, Pondichery on 05.04.2021 and she has also remarried one Mr.Rajesh. He would submit that based on the complaint given by the defacto complainant, a case was registered in Crime No.5 of 2016 and the petitioner was not called for enquiry whereas the respondent after completion of investigation has shown the petitioner id an absconding accused and filed the final report before the learned Munsif cum Judicial Magistrate, Portnovo and the case has been taken up for trial in C.C.No.157 of 2017 and the learned trial Judge had issued a Non bailable warrant of arrest against him. He would submit that the petitioner had not obtained any bail and he has been only shown as an



absconding accused. He would submit that the petitioner was all along working at Kuwait and he was not aware of the case being taken on file and non bailable warrant of arrest being issued against him. He would submit that the petitioner is ready to appear before the Court and also abide by any stringent conditions that may be imposed on him.

5. The learned Government Advocate (Crl.side) would submit that the petitioner is the first accused in this case. However, he would submit that the respondent had completed the investigation and filed an absconding charge sheet against the petitioner and the trial Court had issued a non bailable warrant of arrest against him.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the materials available on record.

7. Taking into consideration of the above facts and submissions made on both sides and that the absconding charge sheet has been filed, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:



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8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before **the learned Munsif Cum Judicial Magistrate, Portnovo**, on condition that of 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 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 appear before learned Munsif cum Judicial Magistrate, Portnovo for a period of two weeks on all working days and thereafter on the dates fixed by the learned Judicial Magistrate/trial Judge.

[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.



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[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 abscond, a fresh FIR can be registered under Section 229A IPC.

9. With the above directions, this Criminal Original Petition is ordered.

05.06.2023.

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