



Crl.O.P.No.14160 of 2023

Crl.O.P.No.14160 of 2023 and
Crl.M.P.No.8917 of 2023

G.CHANDRASEKHARAN, J.

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under **Sections 498(A), 494, 294(b), 109 and 506(i) of IPC**, in Crime No.12 of 2023, on the file of the respondent police, seeks anticipatory bail.

2. The main ground on which the learned counsel for the petitioner canvassed the anticipatory bail petition is that, the FIR in Crime No.12 of 2023 was registered among other offences under Section 494, IPC as well. It is further submitted that as per Section 198 Cr.P.C., no Court shall take cognizance of an offence punishable under Chapter XX of the Indian Penal Code (45 to 1860) except upon a complaint made by person aggrieved by the offence. Therefore, a person aggrieved should only institute a private complaint and the registration of FIR under Section 494, IPC is illegal. It is further submitted that, the FIR



CrI.O.P.No.14160 of 2023

allegations do not make out a case for registration of FIR for the offence under Section 498A IPC. There is already a divorce petition filed by the petitioner in H.M.O.P. No.77 of 2020, is pending on the file of the Sub Court, Panruti. After filing the divorce petition, only to harass the petitioner, this criminal complaint is given.

3. In reply, the learned counsel appearing for the defacto complainant/intervenor submitted that, when the first marriage between the petitioner and the defacto complainant is subsisting, petitioner married his relative namely Soorya on 11.05.2023. Petitioner is not co-operating for completion of enquiry in H.M.O.P. No.77 of 2020 for the reasons that he failed to appear before the Court for the purpose of cross examination. When the defacto complainant asked him about the 2nd marriage, petitioner had threatened the defacto complainant that he would murder her and the child. It is strongly opposed by the learned counsel for the defacto complainant/intervenor to grant anticipatory bail.



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Crl.O.P.No.14160 of 2023

4. The learned Government Advocate (Crl. Side) submitted that the co-accused were granted anticipatory bail by the trial Court.

5. Considered the rival submissions and perused the records.

6. A reading of the first information report shows that, the marriage between the petitioner and the defacto complainant took place on 04.09.2016. At the time of marriage, the parents of the defacto complainant, parted 50 sovereigns of gold jewels, cash of Rs.3 lakhs for purchasing of car and Seer articles worth about Rs.5 lakhs. It is alleged that the petitioner was harassing, ill treating and physically harming the defacto complainant after marriage. He used to talk with other women through phone and when she asked about it, he said to have beaten the defacto complainant. It is also alleged that, on 11.05.2023, he married one Soorya with the help of co-accused.

7. As already stated, the offence under Section 494 IPC can be prosecuted only by instituting a private complaint and the registration of



Crl.O.P.No.14160 of 2023

FIR is barred under Section 198 Cr.P.C. Most of the allegations revolves around the 2nd marriage of the petitioner.

8. Considering the aforesaid facts and the fact that the issue between the parties is a matrimonial disharmony, this Court is inclined to grant anticipatory bail to the petitioner.

9. Accordingly, the petitioner is ordered to be released on bail 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 **learned Judicial Magistrate-II, Panruti**, 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:



Crl.O.P.No.14160 of 2023

[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 petitioner shall report before the respondent police daily at 10.00 a.m. until further orders.

[c] the petitioner 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].



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Crl.O.P.No.14160 of 2023

[f] If the accused thereafter absconds, a fresh
FIR can be registered under Section 229A IPC.

Accordingly, this Criminal Original Petition is ordered.
Consequently, connected Miscellaneous petition is closed.

10.07.2023

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CrI.O.P.No.14160 of 2023

G.CHANDRASEKHARAN, J.

ksa-2

CrI.O.P.No.14160 of 2023

10.07.2023