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CRL OP(MD)



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 08/02/2023

PRESENT

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

CRL OP(MD). No.456 of 2023

Niyasudeen

... Petitioner/Accused No.1

Vs

The State rep.by,
The Inspector of Police,
All Women Police Station-Papanasam Police Station,
Thanjavur District.
Crime No.25 of 2022.

... Respondent/Complainant

2. Nowfal Mumeena
(*R2 suomotu impleaded as per order of this
Court, dated 09.01.2023)

For Petitioner : M/s.Karuna V, 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.255 of 2022 on the file of
the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, apprehending arrest at the hands of
the respondent police for the alleged offence punishable under
Sections 294(b), 498(A), 506(i) I.P.C and Section 4 of Dowry
Prohibition Act, 1961 and Section 4 of TNPHW Act, 2002, in Crime
No.25 of 2022, on the file of the respondent police, seeks
anticipatory bail.

2. The case of the prosecution as per the defacto
complainant Nowfal Mumeena is that the marriage between her and the
respondent was solemnized on 24.12.2017. At the time of marriage, 12

<https://www.mca.gov.in/>



sovereigns of gold jewels and sridhana articles worth ak .2 lakhs were given. Her husband was found addicted to liquor and tobacco products, for that he pledged her jewels. The accused persons harassed her by demanding additional dowry. Hence, the complaint.

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3. The learned counsel for the petitioner submitted that there was a matrimonial dispute between the parties, over which, a false complaint has been foisted against him. Even before the receipt of report from the Social Welfare Officer, the case has been registered by the respondent police. The petitioner had appeared before the Social Welfare Officer, whereas, the de facto complainant was not appeared. The matrimonial dispute has been exaggerated and a false complaint has been given. Hence, prays to release the petitioner on anticipatory bail.

4. The learned Government Advocate (Crl.Side) submitted that there was a matrimonial dispute between the husband and wife, over which, the alleged occurrence took place. The petitioner has pledged the jewels of the defacto complainant and harassed her by demanding more dowry. The parents of the petitioner also tortured the de facto complainant. Hence, prays to dismiss the petition.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court. This Court by order, dated 09.01.2023 directed to implead the defacto complainant as second respondent and directed the first respondent to ensure the presence of the defacto complainant before this Court today. However, the defacto complainant/second respondent has not appeared before this court today. It is seen that the defacto complainant has also not appeared before the Social Welfare Officer.

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

7. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **District Munsif cum Judicial Magistrate, Papanasam**, 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



to ensure their identity.

[b] the petitioner shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks, thereafter, on every Saturday at 10.30 a.m., until further orders;

[c] the petitioner shall not tamper with the 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]**; and;

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

sd/-

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/02/2023

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

PNM

TO

1 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
PAPANASAM.

2 -DO- THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT.

3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION-PAPANASAM POLICE STATION,
THANJAVUR DISTRICT.

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

+1. CC to M/S.KARUNA V Advocate SR.No.2157(I)

ORDER

IN

CRL OP(MD) No.456 of 2023

Date :08/02/2023