



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

Date : 13/02/2023

PRESENT

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

CRL OP(MD) . No.1470 of 2023

WEB COPY

1. G.Vivekanand
2. N.N.Ganesan
3. G.Saroja

... Petitioners/Accused No.1 to 3

Vs

State Rep.by
The Inspector of Police,
All Women Police Station,
Tallakulam, Madurai City,
Crime No.04 of 2023.

... Respondent/Complainant

B.Rajeshwari

... Petitioner/Intervener/Defacto Complainant
in CRL MP(MD).1882/2023 in CRL OP(MD).1470/2023

For Petitioners : M/s.Gopalan.T.K., Advocate.
For Respondent : Mr.A.Albert James,
Government Advocate (Crl.Side)
For Intervenor : Mr.C.Muthusaravanan, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.04 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 to A3, who apprehend arrest at the hands of the respondent police for the offence punishable under Sections 498 (A) and 406 of IPC, in Crime No.4 of 2023, on the file of the respondent police, seek anticipatory bail.

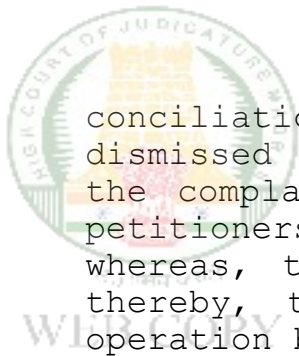
2.The case of the prosecution is that the defacto complaint is residing at Ahmedabad. The first petitioner and the elder daughter of the defacto complainant namely, Sudharshana are the husband and wife. The marriage between the first petitioner and the said Sudharshana was solemnized on 08.12.2021 and at the time of marriage, 141 sovereigns of gold jewels and 11 sovereigns of platinum jewels were given as dowry to the first petitioner. From the date of marriage, the petitioners herein had harassed the daughter of the defacto complainant by demanding additional dowry. On the demand made by the petitioners 2 & 3, Rado watch worth about Rs.2.5 lakhs, apple iphone 13 model worth about Rs.1.4 lakhs, apple
<https://www.mca.gov.in/2023>
iphone 12 model worth about Rs.1.40 lakhs were given as dowry to the



petitioners 1 and 3. Further on the demand, Rs.20 l. as transferred to the account of 'Pee Ess Enterprises Company through SBI Cheque bearing No.576409 dated 03.12.2021 and cash of Rs.15 lakhs was given to the petitioners 2 & 3 at their home at Annanagar on 04.12.2021 and Rs.10 lakhs was transferred to the account of the first petitioner through SBI Cheque bearing No.576410 dated 16.12.2021 and another Rs.5 lakhs was transferred to the account of the first petitioner through SBI Cheque bearing No.484126 dated 16.12.2021. Totally, the accused persons received a sum of Rs.50 lakhs cash as dowry from the defacto complainant. After marriage, the daughter of the defacto complainant started to lead her matrimonial life with the petitioners at Madurai and they never lived as husband and wife. The first petitioner did not consummate the marriage with the daughter of the defacto complainant. When the same was questioned by the daughter of the defacto complainant, he told that he is not interested in marriage with any girls, whereas, he is interested only with male. She informed the same to her in-laws. But, they were already having knowledge about his defect of impotency, the petitioners 2 & 3 have demanded a sum of Rs.1 crore as dowry for the purpose of starting a company nearby Airport, Madurai. When the same was refused, the daughter of the defacto complainant was driven out from the matrimonial home. Hence, the complaint.

3.This Court, on the last occasion, on the consent of both parties, had referred the matter to mediation and this Court had also appointed Mr.M.Mohideen Basha, learned counsel, as Mediator to mediate the issues between the parties and he was asked to file the mediation report before this Court on 13.02.2023. Pursuant to the same, the mediator has filed a report today stating that despite best efforts the mediation has failed.

4.The learned counsel for the petitioners would submit that the petitioners are innocents and a case of matrimonial dispute has been exaggerated. He would further submit that the communications through Whatsapp between the first petitioner and the de-facto complainant would show that the relationship between the husband and wife was very cordial in nature. He would further submit that subsequently, the de-facto complainant wanted the first petitioner to have a separate house and since the first petitioner being the only son was not ready to go for a separate house, a false complaint has been given and while CSR was pending, the petitioners had approached this Court in Crl.O.P.(MD)No.8258 of 2022, during pendency of the petition, the matter was earlier referred to mediation and during mediation, the petitioners have returned the entire jewellery and cash of Rs.2,00,000/- to the de-facto complainant and a settlement was also arrived at between the parties on 29.02.2022, wherein, the de-facto complainant has also stated that they have no further claims or demands against each other with respect to Crl.O.P.(MD) No.8258 of 2022 and all disputes and differences in this regard are settled between the parties through the process of



conciliation and mediation. Subsequently, that petition was dismissed on 15.11.2022. He would further submit that thereafter, the complaint was referred to the Social Welfare Officer and the petitioners have appeared before the Social Welfare Officer, whereas, the de-facto complainant did not appear for enquiry and thereby, the Social Welfare Officer, on account of the non-co-operation by the de-facto complainant, has not proceeded further. He would further submit that the fact remains that it was agreed by both parties that the marriage expenses would be shared by them and thereby, an amount of Rs.35,00,000/- was transferred by the parents of the de-facto complainant to the account of the second petitioner and the petitioners have also celebrated a pompous marriage by spending huge amounts. He would further submit that the petitioners have not committed any offence and only an account of the adamant attitude of the de-facto complainant and the refusal to set up a separate house, the present complaint has been given. Subsequently based on the complaint given by the de-facto complainant before the learned Judicial Magistrate No.VI, a reference was made to the respondent to enquire and report the matter on 20.01.2023, however, the respondent police without conducting any preliminary enquiry had straightaway registered a case and the petitioners were also issued notice under Section 41 A of Cr.P.C. and they have also appeared and duly co-operated for the enquiry. He would further submit that the custodial interrogation of the petitioners may not be required in the facts of the case. Hence, he would seek for anticipatory bail.

5.The learned Government Advocate (Crl. side) would submit that a case came to be registered based on the directions from the learned Judicial Magistrate. He would further submit that the allegations against the petitioners are that subsequent to the marriage, they have demanded further dowry of Rs.One Crore. He would further submit that notice has been issued to the petitioners under Section 41A of Cr.P.C and they have appeared and co-operated during the enquiry.

6.The learned counsel for the intervenor would submit that they have filed a private complaint before the learned Judicial Magistrate and the learned Judicial Magistrate had directed the respondent police to register the case. He would further submit that the enquiry is pending with the Social Welfare Officer. He would further submit that Rs.2,00,000/- was received only towards the cellphone, which was given to the first petitioner and further, Rs.35,00,000/- was given as dowry and the amount has not been returned so far and thereby, he would object for grant of anticipatory bail to the petitioners.

7.The learned counsel for the petitioners would submit that the petitioners have agreed to pay Rs.50,000/- (Rupees Fifty thousand only) to the mediator as remuneration and the said amount shall be paid on or before 22.02.2023.



8. Heard. Perused the materials available on record including the First Information Report and the mediation report filed by the mediator. Earlier, the matter had been referred to mediation and during such time, the entire jewellery and cash of Rs.2,00,000/- had been returned to the de-facto complainant and on 22.09.2022 a settlement had also been arrived between the parties. The parties have also stated that they have no demands against each other and all disputes and differences are amicably settled between them.

9. Taking into consideration of the facts and circumstances of the case, this court is inclined to grant anticipatory bail to the petitioners with certain conditions:

10. 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 (Additional Mahila Court), Madurai, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 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 a.m., for a period of two weeks and thereafter, on every Saturday at 10.30 a.m., until further orders.

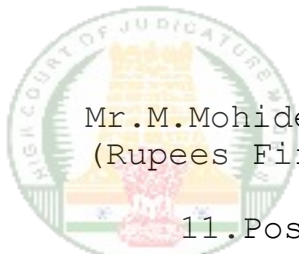
[c] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[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].

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

<https://www.mhc.tn.gov.in/judis> agreed by the counsel for the petitioners, the Mediator



Mr.M.Mohideen Basha shall be paid a remuneration of Rs (Rupees Fifty Thousand) on or before 22.02.2023.

11.Post this matter on 23.02.2023 for reporting compliance with regard to payment of remuneration to the mediator.

sd/-

13/02/2023

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/ TRUE COPY /

16/02/2023

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

SJI

TO

1 THE JUDICIAL MAGISTRATE,
(ADDITIONAL MAHILA COURT), MADURAI.

2 DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,
TALLAKULAM, MADURAI CITY, MADURAI DISTRICT.

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

COPY TO

MR.M.MOHIDEEN BASHA, ADVOCATE,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.T.K.GOPALAN, Advocate (SR-2237[I] dated 14/02/2023)

ORDER

IN

CRL OP(MD) No.1470 of 2023

Date :13/02/2023

RS/VR/SAR.(16.02.2023) 5P-7C