



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 10/03/2023

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PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP (MD) Nos.4214, 4220, 4230 and 4231 of 2023

M.Murugan	...Petitioner/Accused No.4 in Crl.O.P (MD) No.4214/23
Mariappan Subulakshmi	...Petitioners/Accused Nos.2 & 3 in Crl.O.P (MD) No.4220/23
Balasubramania @ Balasubramani	...Petitioner/Accused No.10 in Crl.O.P (MD) No.4230/23
M.Dhayalan	...Petitioner/Accused No.1 in Crl.O.P (MD) No.4231/23

Vs.

The State represented by
The Inspector of Police,
Thenkarai Police Station,
Periyakulam,
Theni District.
(Cr.No.61 of 2023)

...Respondent/Complainant

For Petitioner
in Crl.O.P (MD) No.4214/23 : Mr.S.Venkatesh, Advocate
For Petitioner
in Crl.O.P (MD) No.4220/23 : Mr.P.Rajagopalan, Advocate
For Petitioner
in Crl.O.P (MD) No.4230/23 : Mr.B.Jeyakumar, Advocate
For Petitioner
in Crl.O.P (MD) No.4231/23 : Mr.K.R.Kishore Ram, Advocate

For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor

For Intervenor : Mr.R.Gandhi, Senior Counsel



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

COMMON PRAYER :-

For Anticipatory Bail in Crime No.61 of 2023 on the file of the Respondent Police.

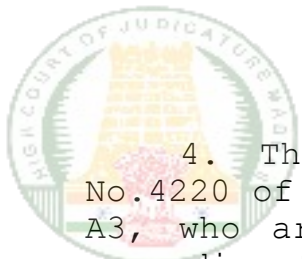
COMMON ORDER : The Court made the following order :-

The petitioners, who apprehending arrest at the hands of the respondent police for the offences punishable under Sections 147,294 (b) and 506(i) of IPC r/w Section 4 of TNPHW Act and Section 67B of IT Act, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that on 25.12.2022 at about 10.45 hrs A1/Thayalan, came to the defacto complainant's garden and said that if she did not withdraw the sexual assault case already given, he would kill her. A1 also threatened her that he would misrepresent her photos and videos by spreading them on the websites and public places and made her to hang herself to disgrace. A1 also further threatened that he would file false complaint, if she did not withdraw sexual assault case. Her in-laws Mariyappan, Subbulakshmi (A2 & A3) keep threatening her to divert her husbands's (Murugan - A4) sexual assault case, with the help of Rabeek (A5). A5 used the video and audio of her conversation with one Sathiya and Jeeva, as if, she was talking to one Ravi and asked her to send it to her relatives for withdrawing the case. A6's daughters Prasana Devi and Hindhuja (A7 and A8) with the help of Pon Ananadhan (A6) have mis-represented her audio by speaking like her in the places, where it was necessary. The said Sathiya and Jeeva, witnesses of her sexual assault case, tried to force her into prostitution many times by their instigation. A9 and A8 represented that they were advocates and going to let the media mis-represented her. On 08.01.2023 Renuka, Ranjani (A11 and A12), working at Sri Ganapathy Silks, posted her photos in Whastapp, stating that call for your requirement. On 13.02.2023, Balasubramanian (A10) called her on Whatsapp and said that he defamed her and would make defame again and her story was over. He threatened her that she would be disgraced and hanged. Hence, the case has been registered.

3. The learned Counsel for the petitioner in CrI.O.P(MD)No.4231 of 2023 submitted that the petitioner is only an Advocate appeared for A2 to A4, who is facing trial in S.C.No.10 of 2023 on the file of the Additional Mahila Court, Theni. There are five separate allegations, which are zigzag allegations and the said allegations are not connected to each other. He has not made any phone calls to the defacto complainant as alleged by her and there is no iota proof for it. Therefore, custodial interrogation does not require and seek

<https://www.mca.gov.in/> for anticipatory bail.

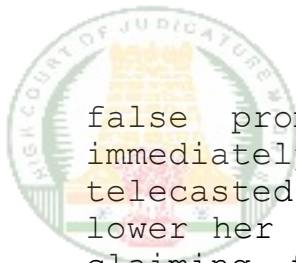


4. The learned counsel for the petitioners in Crl.O.P(MD) No.4220 of 2023 submitted that the petitioners are arrayed as A2 and A3, who are none other than the father and mother of A4. Even according to the defacto complainant, except their relationship, no allegation as against them. Therefore, the petitioners in Crl.O.P. (MD)No.4220 of 2022 are nothing to do the crime as alleged by the prosecution and sought for anticipatory bail.

5. The learned counsel for the petitioner in Crl.O.P(MD)No.4214 of 2023 submitted that the petitioner has already facing trial in S.C.No.10 of 2023 on the file of the Additional Mahila Court, Theni. The defacto complainant, who is none other than the nephew of retired I.P.S., Officer and he is involved in serious offences of honey trapping business men and extracting money from them. Therefore, the 5th accused herein already lodged a complaint as against the defacto complainant and the same was registered in Crime No.27 of 2023 and it is pending for investigation. Therefore, the defacto complainant has not approached the Court with clean hands and she is a habitual offender, as such the false complaint foisted against the petitioner. In fact, he further submitted that on one hand, she lodged a complaint under Sections 376 and 417 of IPC, in which, the petitioner is facing trial and on the another hand, she also filed a petition in HMOP.No.610 of 2020 on the file of the Family Court, Theni, for restitution of conjugal rights and it is pending. She also filed a suit for bare injunction against the petitioner herein in O.S.No.84 of 2022 on the file of the District Munsif Court, Theni and the same is also pending.

6. The learned counsel for the petitioner in Crl.O.P(MD)No.4230 of 2023 submitted that the petitioner is nothing to do the crime as alleged by the prosecution. He is the owner of the Ganapathy Silks, in which, A4 was working as a Manager. The defacto complainant was working as a staff in the Silk section. She never owned any property and only to escape from the clutches of law, she keeps on filings complaints one after another. Therefore, he seeks for anticipatory bail.

7. Per contra, Mr.R.Gandhi, learned Senior Counsel for the defacto complainant submitted that already she lodged a complaint for sexual assault and the same was registered under Sections 376 and 417 of IPC, in which, the second and fourth accused herein are facing trial. When the case was tried for trial in order to withdraw the said complaint and also in order to tarnish the name of the defacto complainant, they displayed the photographs in the social media and her modesty will be outraged. They posted the photographs to the defacto complainant and called her for prostitution, as if, she is a call girl. That apart, the first accused, who is the Lawyer appearing for A2 to A4 and all the accused persons had set up the 5th accused and lodged a false complaint as against the defacto complainant, as if she received Rs.50,000/- from him and on the



false promise of marrying him. Based on the said complaint, immediately, through their money power, they published and telecasted morphing videos of the defacto complainant in order to lower her image and to take defense against her. A8 and A9 are also claiming to be the Lawyers of A4, who threatened the defacto complainant over phone and insisted her to withdraw the complaint lodged by her. It is now tried for trial. At the instigation of the 4th accused, the employees of the Ganapathy Silks circulated the defacto complainant's photos in the whatsapp group, as if, she is a call girl and she can be contacted over phone displaying her photos. The learned Senior Counsel also produced the photographs before this Court.

8. It is seen that the de-facto complainant is a 'victim of crime' committed by the 4th accused herein, who is none other than the owner of Ganapathy Silks. The defacto complainant had established a Designer Studio in Ganapathy Silks. At this juncture, the 4th accused on the false promise of marriage had sexual intercourse with her and later cheated her. Therefore, she lodged a complaint and the same was registered in Crime No.13 of 2022 under Sections 109, 376, 417 and 506(i) of IPC., against the 4th accused and his parents. Now it is tried for trial in S.C.No.10 of 2023 on the file of the Additional Mahila Court, Theni. In order to escape from the clutches of law, now he along with his counsel and all the accused persons threatened the defacto complainant to withdraw the complaint. That apart, on perusal of records and photographs produced by the learned Senior Counsel appearing for the defacto complainant revealed that the accused persons committed very serious offence against the defacto complainant. That apart all the accused foisted a false complaint as against the de-facto complainant that she has received a sum of Rs.50,000/- and refused to marry. Overall, it is seen that all the complaints as against the victim are falsely foisted against her and threatened to withdraw the complaint as against A4. It is also seen that the first accused had visited the house of the defacto complainant and threatened her to withdraw the complaint. Therefore, it would amount to mis-contact, as such custodial interrogation is very much required insofar as the 4th accused. Already, he facing trial in S.C.No.10 of 2023 under Sections 109, 376, 417 and 506(i) of IPC and as such he committed very serious offence that he published the de-facto complainant's photos in the social media. Hence, custodial interrogation is very much required in this case. Hence, this Court is not inclined to grant anticipatory bail to A1 and A4.

9. As far as the Accused No.10 in CrI.O.P(MD)No.4230 of 2023 is concerned, he is also colluded with A4 and threatened the victim and as against him, the defacto complainant already lodged a complaint and it is also pending for investigation in Crime No.174 of 2022 on the file of the Theni Police Station. Therefore, custodial interrogation is very much required in this case. Hence, this Court is not inclined to grant anticipatory bail to him.



10. Insofar as the petitioners/A2 & A3 in CrI.O.P(MD)No.4220 of 2023 are concerned, they are none other than the father and mother of A4. Even according to the defacto complainant, there is no specific allegation against them and therefore custodial interrogation does not require. Hence this Court is inclined to grant anticipatory bail to the petitioners in CrI.O.P(MD)No.4220 of 2023 with certain conditions.

11. Accordingly, the petitioners/A2 & A3 in CrI.O.P(MD)No.4220 of 2023 are ordered to be released on bail in the event of arrest or their appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Periyakulam, on condition that the petitioners/A2 and A3 in CrI.O.P(MD)No.4220 of 2023 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)the petitioners/A2 and A3 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/A2 and A3 shall report before the respondent police as and when required for interrogation;

(c)the petitioners/A2 and A3 shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioners/A2 and A3 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/A2 and A3 in accordance with law as if the conditions have been imposed and the petitioners/A2 and A3 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 petitioners/A2 and A3 thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

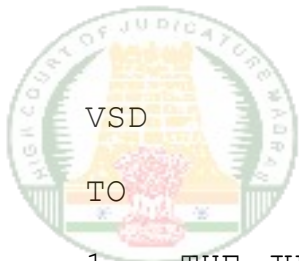
sd/-

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/04/2023

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



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- 1 THE JUDICIAL MAGISTRATE,
PERIYAKULAM.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
- 3 THE INSPECTOR OF POLICE
THENKARAI POLICE STATION, THENI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP (MD) Nos. 4214, 4220,
4230 and 4231 of 2023
Date : 10/03/2023

PKP/CG/SAR-2/05.04.2023/ **6P/5C**