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

Dated: 11/09/2023

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.MP(MD)No.7220 of 2023

in

Crl.OP(MD)No.4485 of 2023

Vinothini Rani

: Petitioner/De-facto Complainant

Vs.

1.Praveen

: Respondent/Petitioner

2.State rep. by

The Inspector of Police,
AWPS Police Station,
Palayamkottai,
Tirunelveli District.
(Crime No.06 of 2023)

: Respondent/Respondent

PRAYER:-Criminal Miscellaneous Petition has been filed seeking cancellation of anticipatory bail granted in favour of the 1st respondent in Crl.OP(MD)No.4458 of 2023, dated 09/03/2023 and commit him to custody and pass such further or other orders.

For Petitioner

: Mr.Raja Prabakaran, Advocate

For 1st respondent

: Mr.P.Rajesh

For 2nd Respondent

: Mr.S.Manikandan

Government Advocate
(Criminal side)

ORDER

This Criminal Miscellaneous Petition is filed seeking cancellation of

<https://www.mca.gov.in/> anticipatory bail granted to the first respondent.



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2. Brief facts:-

The petitioner herein is the de-facto complainant lodged a complaint against her husband and in-laws, which was registered in Crime No.6 of 2023 stating that she was married to A1 some six years ago and her husband is working in TVMCH Hospital. They were having a female child. During 2016 to 2019, they were living with her in-laws in the very same house. The in-laws were staying in the downstairs portion and the de-facto complainant, her husband and the child were living in the upstairs portion. Originally, her husband was cordial and good health with her. But the in-laws are not liking her. Slowly her husband started harassing her, used to beat her badly and the in-laws are also supporting him. Because of the above said continuous torture, she both mentally and physically upset. After three years of continuous treatment, she became pregnant. When her child was aged about six months, her husband and in-laws used to snatch the child from her. She was not allowed to take care of her child. She was also neglected in the matrimonial home. On one day, she noticed injury mark on the child. When she enquired, she was criminally intimidated. She also noticed the very same mark on her neck. So she was forcibly taken to the hospital. After that, she returned to her parental home and for about 10 months, she was staying in her parental home. In July 2021, her husband came to



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Madurai and took her to the matrimonial home. For about six months, she was staying there. Even at that time, she was not taken proper care. Her husband snatched her belongings.

3.Now making allegation that the child was taken by her husband, later did not see her. On the basis of the above said occurrence, a case was registered in Crime No.6 of 2023 for the offences under sections 498(A), 406 IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002.

4.The husband moved CrI.OP(MD)No.4485 of 2023 seeking anticipatory bail. That was allowed with condition, by order, dated 09/03/2023.

5.This petition has been filed by the petitioner seeking cancellation of anticipatory bail granted to her husband stating that she has voluntarily attended the counselling at Theni Government Medical College Hospital. The report affirmed that the petitioner is a normal person and requires no medical treatment, but advised her and her husband for counselling. But however, he wilfully refused. In the meantime, he has also filed GWOP No.22 of 2022 before the District Court, Tirunelveli praying custody of the minor child. It is stated to be pending. As per law, the female child



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must be in the custody of the mother. Later, the above said petition was withdrawn stating that he wants to live with this petitioner. Even though, they lived for some time, she was harassed and tortured. The female child was also taken by her husband. She was also harassed seeking dowry. Because of the above said harassment only, she filed the above said complaint. One of the conditions that was imposed upon the first respondent herein is that he should not tamper with the evidence. But against the above said condition, he frequently threatened through mobile phone and also induced his friends to threaten her. Over which, she lodged a complaint. But that was not properly attended by the All Women Police Station, Palayamkottai. The above said complaint was given, on 30/03/2023. Later, she sent a complaint through Registered post, on 31/03/2023. If her husband is allowed to enjoy the anticipatory bail, then her life will be in danger.

6. When the matter was taken up for hearing, it was referred to Mediation and Conciliation Centre, attached to this Bench, again for settlement. But in spite of repeated adjournments, no settlement could be arrived between the parties. So, the matter was again returned to the Court.

7. The learned counsel appearing for the petitioner would repeatedly submit that the child was harassed and ill-treated and even assaulted and for several months, the petitioner was not shown the child. For that purpose, they also produced the



photographs. Not only that it has been stated by the petitioner that she also found some sort of marks in her neck. On a particular day, all these things happened and only prior to the above said complaint, anticipatory bail was granted to the petitioner, considering the fact that it is only a matrimonial issue. Second attempt was made to make a compromise between the parties, but no settlement could be arrived. In respect of cancellation of the anticipatory bail, only post bail conduct of the petitioner can be taken into account. Only on that account, this petition has been filed. So, repeated argument advanced on the side of the petitioner that serious injury has been inflicted upon the child and the child was not shown to the petitioner for several months. Even GWOP that was filed by the first respondent, later came to be withdrawn cannot be taken into account at this stage. It is a matter for investigation and trial.

8. At whose fault, the matrimonial issue arose between the parties is also a matter for consideration by the Investigating Officer, after filling before the trial court. As things stand today, I am not going to those issues, which occurred prior to the complaint between the parties. Several attempts have been made by the petitioner to get the information over the treatment given to her by the Mission Hospital, Madurai. So, who failed to participate in the counselling can also be considered by the Investigating Officer.



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9. So the repeated contention on the part of the petitioner that anticipatory bail granted without taking into consideration of seriousness of the allegation is out of place and cannot be accepted.

10. In the grounds, it has been stated that subsequent to the granting of anticipatory bail, the petitioner was threatened not only by the first respondent, but also through his friends. But absolutely nothing is available on record to show the above said alleged threat and criminal intimidation. Mere bald allegation is not sufficient to cancel the anticipatory bail that was granted.

11. In matrimonial matters, utmost care must be taken to maintain the relationship. That is why, the Courts are liberal in granting anticipatory bail to the husband or in-laws, as the case may be. Sending the husband or in-laws to the prison before trial will cause irreparable damage to the matrimonial tie or relationship.

12. Reading of the entire case records show that only for the purpose of making harassment, this petition has been filed. Absolutely, I find no reason to cancel the anticipatory bail, that was granted to the first respondent. Even now, it is not too late for the parties to make a settlement and if not possible to work out their remedy through appropriate legal proceedings regarding the custody of the child. So for the purpose of seeking custody of the child, this process ought not to have been initiated by the petitioner.



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13. Looking from any angle, I am of the considered view that no case has been made out by the petitioner to cancel the anticipatory bail. Accordingly, this criminal miscellaneous petition stands **dismissed**.

sd/-
11/09/2023

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/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ER
TO

- 1 THE JUDICIAL MAGISTRATE NO.I
TIRUNELVELI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.
- 3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP(MD) No.7220 of 2023
IN
CRL OP(MD) No.4485 of 2023
Date :11/09/2023

SS/JGB/19/09/2023/7P/5C