



CRL OP(MD). No.12316 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 16/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.12316 of 2023

R.Malaiselvam

... Petitioner/ Accused

Vs

1. State Rep.by
The Inspector of Police,
All Women Police Station,
Tallakulam, Madurai District.
Crime No.22 of 2023.

... Respondent/Complainant

(*)2. Oiyammal @ Kumutha,
D.No.179 A, Mela Kallanthiri,
Kallanthiri, Madurai.

... 2nd Respondent

(*)(R2 is Suo-Motu Impleaded as Per Order of the Court
Dated 10/07/2023 in Crl.OP(MD)12316 of 2023 by GIJ)

For Petitioner : M/s.Samidurai K, Advocate.
For Respondent : Mrs.M.Aasha, Government Advocate (Crl.Side)
For Intervenor : Mr.S.Poornachandran, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.22 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/accused, who apprehends arrest at the hands of the respondent police for the offences punishable under sections 498(A), 406 and 506(i) IPC in Crime



CRL OP(MD). No.12316 of 2023

No.22 of 2023, on the file of the respondent police, seeks anticipatory bail.

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2.The case of the prosecution is that the petitioner herein and other accused have demanded additional dowry from the defacto complainant and harassed her both mentally and cruelly. Hence, the case.

3.The learned counsel appearing for the petitioner submitted that the petitioner is innocent and he has not committed any offence as alleged by the prosecution and his name has been falsely implicated in this case and hence, seeks anticipatory bail.

4.The learned Government Advocate (Crl. Side) appearing for the respondent submitted that it is a matrimonial dispute between the husband and wife and the investigation of the case is pending.

5. On perusal of the FIR, it is noticed that it is a case of matrimonial dispute between the husband and wife and it is also seen that the matter has not been settled before the Mediation.

6.Taking into consideration the principles stated by the Honourable Supreme Court in Gurubaksh Singh Sibbia Etc., vs. State of Punjab reported in 1980 AIR 1632 and Lal Kamlendra Pratap Singh vs. State of Uttar Pradesh and others reported in (2009)4 SCC 437 and Joginder Kumar vs. State of U.P. and others reported in (1994) 4 SCC 260, this Court is of the considered view that the alleged offence against the petitioner is matrimonial dispute. Further, the petitioner is having permanent



CRL OP(MD). No.12316 of 2023

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resident at Madurai District and the origin of the crime is family dispute. In this circumstances, the principles stated in Hussainara Khatoon & Ors vs. Home Secretary, State Of Bihar reported in AIR 1979 SC 1360 is taken into consideration. In that case, the Hon'ble Supreme Court has cautioned that pre-trial detention is not be encouraged nor is to be encourageable pre-trial release on sureties; that if the Court is satisfied after taking into consideration that the accused has his roots in the community and is not likely to abscond, he can safely be released on his personal bond.

7. In view of the above, I am inclined to grant anticipatory bail to the petitioner. 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 No. II, Madurai, on condition that the petitioner shall execute own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 shall appear before the trial Court on receipt of summons as directed by the trial Court.



CRL OP(MD). No.12316 of 2023

[b] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[c] the petitioner shall not abscond either during investigation or trial.

[d] 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].

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

sd/-
16/10/2023

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/11/2023

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

TRP
TO

1 THE JUDICIAL MAGISTRATE NO.II, MADURAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI.

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



CRL OP(MD). No.12316 of 2023

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

+1 CC to M/s.K.SAMIDURAI, Advocate (SR-15303[I] dated 17/10/2023)

ORDER

IN

CRL OP(MD) No.12316 of 2023

Date :16/10/2023

RS/JGB/SAR-(02.11.2023) 5P 6C

Madurai Bench of Madras High Court is issuing
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