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CRL OP(MD).N



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

Date : 24/01/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA
CRL OP(MD). No.15923 of 2022

and

CRL MP(MD).No.11291 OF 2022

1. Agastin,

2. Manorani,

3. Jeya Shila @ Shila, ... Petitioners/Accused NO 1 TO 3

Vs

THE STATE REP BY

The Inspector of Police,
All Women Police Station,
Valliyoor,
Tirunelveli District.

(Crime No.14/2022).

... Respondent/Complainant

For Petitioner : M/s.Sivabalan K,
Advocate.

For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate (Crl.Side)

For Intervenor : No representation

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

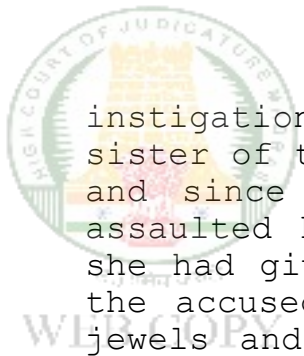
PRAYER :-

For Anticipatory Bail in Crime No.14/2022 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 offences punishable under Sections 498
(A) and 406 of I.P.C. and Sections 4 and 6 of Dowry Prohibition Act,
1961, in Crime No.14 of 2022 on the file of the respondent police,
seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant
Jeya Joselin Beaula, is that she and the first accused belong to
different communities and the first accused had forcibly sexual
intercourse with her and thereafter, he had married her. After the
marriage, the de-facto complainant had given Rs.9,75,000/- for
constructing a house and she had also given 33 sovereigns of gold
jewels to the first accused. The further allegation is that on the



instigation of the petitioners 2 and 3, who are the mother and sister of the first accused had demanded property and further jewels and since she did not succumb to the demand, the accused have assaulted her and also abused her. The further allegation is that she had given a complaint to the police and in the police station, the accused have given an undertaking on 17.11.2016 to return the jewels and the amount received for construction of the house and since they did not return the gold jewels and amount, the present case came to be registered.

3.The learned counsel for the petitioners would submit that the petitioners are innocents and a false complaint has been given. He would further submit that there was a matrimonial dispute between the first petitioner and the de-facto complainant and the de-facto complainant had filed IDOP No.188 of 2021 before the Family Court, Tirunelveli, in which, the de-facto complainant has not made any murmur about the jewels being handed over to the petitioners and the petitioners having given an undertaking, whereas, later belatedly, a complaint has been given under Section 156(3), wherein, she has stated that the first petitioner has given an undertaking to return the jewels. He would further submit that earlier, the de-facto complainant had also filed an application in I.A.No.5 of 2022 in the IDOP based on the alleged memorandum of undertaking, whereas, the Court finding that no averment has been made in the IDOP, has rejected that petition. He would further submit that subsequently, divorce has also been granted by order dated 03.11.2022. Thereby, he would seek for anticipatory bail.

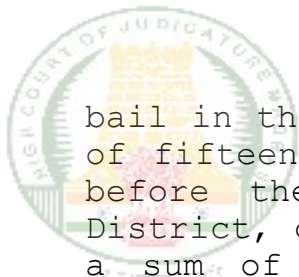
4.The learned Government Advocate (Crl. side) would submit that the first petitioner is the husband and the petitioners 2 and 3 are respectively, the mother and sister of the first petitioner. He would further submit that the marriage between the first petitioner and the de-facto complainant was solemnized on 05.02.2016 and later, the accused had harassed her and taken her jewels and money and refused to return the same. Hence, he would oppose for grant of anticipatory bail.

5.Though the de-facto complainant was represented by her counsel, he did not appear on the last occasion and thereby, this court has directed the matter to be posted under caption for orders today (24.01.2023). Even today, there is no representation for the intervenor.

6.Heard. Perused the materials available on record including the First Information Report.

7.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:

Accordingly, the petitioners are ordered to be released on



bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, Radhapuram, Tirunelveli District, 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 first petitioners shall report before the respondent Police, daily at 10.30 a.m., for a period of four weeks and thereafter, as and when required for interrogation; and the petitioners 2 and 3 shall report before the respondent police daily at 10.30 a.m., for a period of one week and thereafter, as and when required for interrogation.

[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.

Consequently, connected miscellaneous petition is closed.

sd/-

24/01/2023

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/02/2022

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

SJI



TO

1. The Judicial Magistrate,
Radhapuram, Tirunelveli District.
 2. Do-Through The Chief Judicial Magistrate,
Thirunelveli District.
 3. The Inspector of Police,
All Women Police Station,
Valliyoor,
Tirunelveli District.
 4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1. CC to M/S.SIVABALAN K Advocate SR.No.1153

CRL OP (MD) No.15923 of 2022
Date :24/01/2023

KB/SAR I (04.02.2023) 4P 6C