



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 31/01/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA
CRL OP(MD) . Nos.16320 and 16323 of 2022

WEB COPY

1.Zakir Hussain, ... Petitioner/A1
in Crl.O.P.(MD)No.16320 of 2022

2.Noorjahan @ Noor Jaha Begaum

3.Asik @ H.S.Mohamed Aasic Raja ... Petitioner/A2 & A5
in Crl.O.P.(MD)No.16323 of 2022

Vs

1.The Sub-Inspector of Police,
All Women Police Station,
Theni.
Crime No.41 of 2022.
in Crl.O.P.(MD)No.16320 & 16323 of 2022

2.Ayesha Siddiqua,
Mariamman Kovil Near,
Jayamangalam, Theni.

(R2 is suo-motu impleaded vide order
dated 09/09/2022 in
Crl.O.P.(MD)No.16320 & 16323
of 2022 by GIJ)

... Respondents/Complainants
in both petitions

In both petitions:

For Petitioner : M/s.Veeraraghavan S,
For R1 : Mr.A.Albert James,
Government Advocate (Crl.Side)
For R2 : Mr.K.Althaf Sheriff
for Ajmal Associates

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

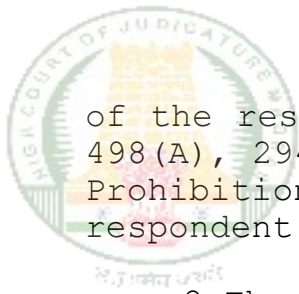
COMMON PRAYER :-

For Anticipatory Bail in Crime No.41 of 2022 on the file of the
Respondent Police.

COMMON ORDER : The Court made the following order :-

The petitioners/A1, A2 & A5, who apprehend arrest at the hands

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of the respondent police for the offences punishable under 498(A), 294(b), 323, 406 and 506(1) of I.P.C. and Section 4 of Dowry Prohibition Act, 1961, in Crime No.41 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant Ayesha Siddiqua, is that the marriage between her and the first accused Zakir Hussain, was solemnized on 01.09.2007 at Sitthaiyankottai Mookapillai Thirumana Mahal. At the time of marriage, 101 sovereigns of gold jewels, Rs.1,00,000/- cash and other household articles were given as dowry and out of the wedlock, they have got two male children and one female child and her husband/first accused was having plantain business at Bangalore and her husband's father passed away on 02.02.2020 and only thereafter, she came to know that her husband was having relationship with several women and was having several wives. The further allegation is that her husband and other relatives have demanded Rs.1,00,00,000/- as additional dowry and had also threatened her and her children. Hence, the case.

3.The learned counsel for the petitioners would submit that the first petitioner/A1 is the husband and the petitioners 2 and 3/A2 and A5 are mother-in-law and relative of the de-facto complainant. He would further submit that admittedly, the marriage between the de-facto complainant and the son of the first petitioner was solemnized on 01.09.2007 and they were living as a husband and wife for the past 15 years at Bangalore and due to misunderstanding, a false complaint has been given. He would further submit that the petitioners 2 and 3/A2 and A5 are none other than the mother-in-law and relative of the de-facto complainant and they are nothing to do with the matrimonial dispute between the de-facto complainant and her husband/A1. Hence, he would seek for anticipatory bail.

4.The learned Government Advocate (Crl. side) would submit that the first petitioner/A1 is the husband and the petitioners 2 and 3/A2 and A5 are mother-in-law and relative of the de-facto complainant. He would further submit that the marriage between the first petitioner and the de-facto complainant was solemnized on 01.09.2007 and after the death of her father-in-law, the first petitioner harassed the de-facto complainant and demanded Rs.1,00,00,000/- as additional dowry and had also criminally intimidated her. Hence, he opposed to grant anticipatory bail.

5.The learned counsel for the intervenor would submit that the marriage between the first petitioner and the de-facto complainant was solemnized on 01.09.2007 and after the death of her father-in-law, the first petitioner harassed the de-facto complainant and demanded Rs.1,00,00,000/- as additional dowry and had also criminally intimidated her. He would further submit that the jewels are still with the petitioners. Hence, he vehemently opposed to



6.In reply, the learned counsel for the petitioners would submit that the marriage had been solemnized 15 years ago and the second petitioner/A2, who is the mother-in-law of the de-facto complainant was living separately and they have nothing to do with the alleged offence.

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:

8.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, Theni, 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 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 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].

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

sd/-

31/01/2023

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/02/2023

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

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TO

1 THE JUDICIAL MAGISTRATE, THENI,

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

3 THE SUB INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
THENI DISTRICT.

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

+1. CC to M/S.VEERARAGHAVAN S Advocate SR.No.1563 (I)

+1. CC to M/S.AJMAL ASSOCIATES S Advocate SR.No.1544 (I)

ORDER

IN

CRL OP (MD) No.16320 and
16323 of 2022

Date :31/01/2023

NA/SSS/SAR-I/09.02.2023/4P/7C