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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/02/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD) . No.17648 of 2021

1. A.Sivasamy

2. R.Gnana Sounthira Rajam

3. A.Bavanasam

4. S.Saras Priya

... Petitioners/Accused No.2 to 5

Vs

1.The State rep.by,
Inspector of Police,
All Women Police Station,
Nagercoil,
Kanyakumari District.
Cr.No.62 of 2021.

... Respondent/Complainant

2 Adithya Rashmy

...Petitioner/Third Party
in CRL MP(MD)No.11198 of 2021

For Petitioner : M/s.Palani Velayutham S,
Advocate.

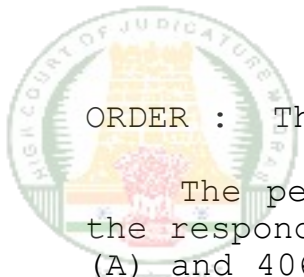
For Respondent : Mr.A.Albert James,
Government Advocate (Crl.Side)

For Intervenor : Mr.Y.Prakash, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.62 of 2021 on the file of the
Respondent Police.



ORDER : The Court made the following order :-

The petitioners/A2 to A5, 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 in Crime No.62 of 2021 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant Adithya Rashmy, is that the marriage between her and the first accused was solemnized on 07.02.2020 at Nagercoil as per the Hindu Rites and Customs and at the time of marriage, Rs.1,00,000/- cash and 113 sovereigns of gold and other household items were given as dowry to the family of her husband. After marriage, the de-facto complainant and the first accused had started their matrimonial life at USA and later, there was a discord among them and the de-facto complainant was harassed by demand of additional dowry and she was driven out of the matrimonial home. The present petition has been filed by the parents/petitioners 1 and 2 and the third petitioner is the uncle and the fourth petitioner is the sister of the first accused/husband of the de-facto complainant. Hence, the case.

3.Earlier, this Court had referred the matter to mediation. However mediation failed and thereafter, the matter came to be listed before this Court on 02.02.2023.

4.When the matter was listed earlier, it was represented by the counsel for the petitioners that if the Lookout Circular against the first accused was withdrawn, there is a possibility of the first accused returning to India and settling the matter with the defacto complainant. Pursuant to the same, the matter is listed today.

5.The learned counsel appearing for the petitioners would submit that the first accused has appeared before this Court and thereafter, compromise talks were effected between the parties. Pursuant to which, the entire articles have been handed over to the de-facto complainant and he had offered a sum of Rs.5,00,000/- and the same was also given to the de-facto complainant as permanent alimony and the de-facto complainant has also acknowledged the receipt of the jewels and other household items and cash and she has also agreed to withdraw the complaint against the petitioners and the parties have also agreed to file a petition for divorce by mutual consent. He would further submit that the parties have also entered into a memorandum of compromise and it has also been filed before this court. He would further submit that the de-facto complainant has also agreed to withdraw the complaint. He would further submit that the first accused shall also co-operate for the dissolution of marriage.

6.The learned Government Advocate (Crl. side) would submit that <https://www.hcj.nagpur.gov.in> the complaint given by the de-facto complainant, a case



came to be registered. He would further submit that the respondent police understands that a compromise has been effected between the parties.

7. The learned counsel for the intervenor would submit that the matter has been settled between the parties on terms and that a joint memo of compromise has been filed before this Court, which have been signed by all the parties. He would further submit that the de-facto complainant has no objection in grant of anticipatory bail to the petitioners. He would further submit that the de-facto complainant has also undertaken to withdraw the complaint.

8. Heard. Perused the materials available on record including the First Information Report, joint memo of compromise and also the affidavit of undertaking given by the de-facto complainant.

9. Considering the facts and circumstances of the case and also considering the undertaking affidavit filed by the de-facto complainant, this court is inclined to grant anticipatory bail to the petitioners with certain conditions:

10. 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, Additional Mahila Court, Nagercoil, Kanyakumari District, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with one surety 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 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 imposed and the petitioners released on bail by the



learned Magistrate/Trial Court himself as laid down by the 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.

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11. The joint memo of compromise filed by both the parties as well as the affidavit of undertaking filed by the de-facto complainant shall form part of the court records.

sd/-
15/02/2023

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24/02/2023

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

sj i

TO

1. THE JUDICIAL MAGISTRATE,
ADDITIONAL MAHILA COURT, NAGERCOIL,
KANYAKUMARI DISTRICT

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMAR @ NAGERCOIL.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NAGERCOIL,
KANYAKUMARI DISTRICT.

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

+1 CC to M/s.Y.PRAKASH, Advocate (SR-2489[I] dated 20/02/2023)

+1 CC to M/s.S.PALANIVELAYUTHAM, Advocate (SR-2534[I] dated 20/02/2023)

ORDER
IN
CRL OP(MD) No.17648 of 2021
Date :15/02/2023

RK/BUC/SAR-3 (23/02/2023) 4P/7C