



CRL OP(MD). No.18106 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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1. Subbuthie @ Subbuthai

2. Paneerselvam

3. Banumathi

4. Sundarammal

... Petitioner/ Accused Nos.2,3,4&5

Vs

The State rep.by,
The Inspector of Police,
All Women Police Station,
Srivilliputhur.
Crime No.21 of 2023.

... Respondent/ Complainant

For Petitioner : M/s.Karuppasamy Pandiyan G,
Advocate.

For Respondent : Mrs.M.Aasha,
Government Advocate (Crl.Side)

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

<https://www.mhc.tn.gov.in/judis>



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PRAYER :-
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For Anticipatory Bail in Crime No. 21 of 2023 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioners/accused, who apprehend arrest at the hands of the respondent police for the offences punishable under sections 498(A), 294(b), 323, 494 IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 in Crime No.21 of 2023, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that due to matrimonial dispute between and A1 and the defacto complainant, the defacto complainant left the matrimonial home and thereafter, A1 married A6 and harassed the defacto complainant both mentally cruelly. Hence, the case.

3.The learned counsel appearing for the petitioners submitted that petitioners are innocent and they have not committed any offence as alleged by the prosecution and their names have been falsely implicated in this case.

4.The learned Government Advocate (Crl. Side) appearing for the respondent



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submitted that after the defacto complainant left the matrimonial home, A1 who is the husband of defacto complainant married A6 and harassed the defacto complainant both mentally cruelly. He would further submit that the investigation of the case is pending.

5. On perusal of the FIR, it is noticed that there was a family dispute between the parties.

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 Kamendra 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 petitioners are not a case of heinous crime. Further, the petitioners are having permanent resident at Srivilliputur and the origin of the crime is matrimonial 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



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satisfied after taking into consideration that the accused have their roots in the community and is not likely to abscond, they can safely be released on his own bond.

7. In view of the above, I am inclined to grant anticipatory bail to the petitioners. 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 Additional Mahila Court (Magisterial Level), Srivilliputur, on condition that the petitioners shall execute own bonds for a sum of Rs.10,000/- (Rupees Ten Thousand only) each 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 shall report before the trial Court as and when required for the purpose of interrogation.

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

[c] the petitioners 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 petitioners in accordance with



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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].

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

sd/-
11/10/2023

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/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TRP

TO

- 1.THE JUDGE, ADDITIONAL MAHILA COURT (MAGISTERIAL LEVEL),
SRIVILLIPUTUR.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR.
- 3.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SRIVILLIPUTHUR.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



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ORDER
IN
CRL OP(MD) No.18106 of 2023
Date :11/10/2023

RK/JGB (20/10/2023) 6P /6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023