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CRL OP(MD). N



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

Date : 09/02/2023

PRESENT

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

CRL OP(MD). No.22248 of 2022

Mahesh

... Petitioner/Accused No.1

Vs

The State rep.by,
The Inspector of Police,
All Women Police Station, Tirunelveli
Rural, Tirunelveli.
(Crime No.14/2022).

... Respondent/Complainant

For Petitioner : M/s.Abiya K, Advocate

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

For Intervenor : Mr.P.Singaravel, Advocate

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 petitioner/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 417, 376, 498(A), 506(ii) IPC r/w 4 of Dowry Prohibition Act, 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 defacto complainant Mariammal is that she has completed M.Sc., B.Ed. and while she was studying in IAS Training Academy at Tirunelveli, she got acquainted with the accused, who was also studying in the same Institute. The accused had sexual intercourse with her, on giving a false promise that he would marry her, thereby, she became pregnant. In the compulsion there was a marriage between them. Further



allegation that he had demanded additional dowry and threat. Finally, the accused persons sent her out of the matrimonial home. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is innocent and a false case has been foisted against him. The petitioner has not committed any offence, as alleged by the prosecution. Even today the petitioner is ready to take back the defacto complainant to the matrimonial home. On the ill advice given by her relatives, the false case has been registered against him and his family members. Hence, prays to release the petitioner on anticipatory bail.

4. The learned Government Advocate (Crl.Side) submitted that the petitioner and the defacto complainant are known to each other. On the guise of marriage, the petitioner had sexual intercourse with the defacto complainant, thereby, she became pregnant. Later, the pregnancy was aborted. However, on compulsion of family members, the petitioner had married her and later, the petitioner and his family members demanded dowry. Hence, prays to dismiss the petition.

5. The learned counsel for the intervenor vehemently opposed to enlarge the petitioner on anticipatory bail.

6. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7. Taking into consideration the facts and circumstances of the case, considering the nature of matrimonial dispute between the parties, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate No.III, Tirunelveli**, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 petitioner 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 petitioner shall report before the respondent police everyday at 6.30 p.m., for a period of one week and



thereafter, on every Saturday at 10.30 a.m., until further ([c] the petitioner shall not tamper with the evidence or witness either during investigation or trial;

[d] the petitioner 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]**; and;

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

sd/-

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

PNM

TO

1 THE JUDICIAL MAGISTRATE NO.III,
TIRUNELVELI.

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

3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, TIRUNELVELI RURAL,
TIRUNELVELI.

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

+1. CC to M/S.ABIYA K Advocate SR.No.2103(I)

ORDER

IN

CRL OP(MD) No.22248 of 2022

Date :09/02/2023

VA/SBN/SAR-2/22.02.2023/3P/6C