



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

Date : 03/01/2023

PRESENT

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

CRL OP(MD) . No.23208 of 2022

Arunachalam

... Petitioner/Accused No.1

Vs

The state rep.by
The Inspector of Police,
All Women Police Station, Nagercoil,
Kanyakumari District.
Cr.No.15/2022.

... 1st RESPONDENT/COMPLAINANT

2. Krishnaveni

...2nd Respondent / Defacto Complainant

For Petitioner : M/s.Anto Prince G, Advocate.

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

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

PRAYER :-For Anticipatory Bail in Crime No.15/2022 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 406, 498(A), 294(b), 506(i) I.P.C and Sections 4 & 6 of Dowry Prohibition Act, 1961, in Crime No.15 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant viz., Krishnaveni is that she got married to the petitioner on 30.11.2012 at Nagercoil and a child was born to her on 21.03.2014. Since there was a misunderstanding between them, the parents of the first accused/A2, A3, prevented the defacto complainant to go to America with her husband. Thereafter, they went to America and lived together and came back to India during the year 2013. After that, the accused persons have demanded more dowry from the defacto complainant and driven her out from the matrimonial home, without handing over the child. Hence, the complaint.

3.(i)The learned counsel for the petitioner submitted that the petitioner is the husband of the defacto complainant. He is innocent and since there was a feud between the parties, a false complaint has been given.



(ii) This is the second petition for anticipatory bail. In the earlier petition, it was represented by the respondent Police that the jewels and the sridhana articles of the defacto complainant were not returned her. Hence, the earlier petition was withdrawn, in respect of this petitioner. In this regard, it is submitted that the defacto complainant had already preferred a complaint before Avadi Police Station, in which, enquiry has been conducted. At that time, the petitioner has returned the entire jewels and sridhana articles to the defacto complainant and the same was acknowledged by her. The alleged acknowledgement given by the defacto complainant was also placed in the typed set of papers along with the petition.

(iii) Further, it is submitted that the petitioner has filed a petition for divorce in HMOP No.918 of 2021, before the Sub Court, Poondamalle and the defacto complainant also filed a petition for restitution of conjugal rights in HMOP No.1316 of 2021, before the Family Court, Nagercoil. The petitioner's minor son is also in the custody of the petitioner. Seeking guardianship, the petitioner has filed a petition in GWOP No.676 of 2021 and the defacto complainant has also filed a petition in GWOP No.846 of 2022, before Principal District Judge, Thiruvallur.

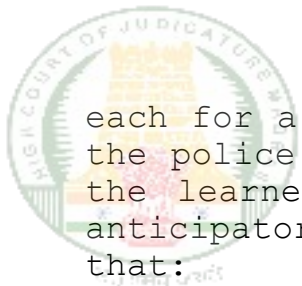
(iv) Furthermore, the learned counsel for the petitioner submitted that the matrimonial dispute between the parties has been exaggerated and he would reiterate that the entire jewels and sridhana articles were returned back to the defacto complainant. The co-accused have also been released on bail by this Court. Hence, prays to release the petitioner on anticipatory bail.

4. The learned Government Advocate (Crl.Side) submitted that the marriage between the petitioner and the defacto complainant was solemnized on 30.11.2012. The accused persons have harassed the defacto complainant, by way of demanding additional dowry and driven her out from the matrimonial home, without giving her child. Hence, prays to dismiss the petition.

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

6. Taking into consideration the facts and circumstances of the case and considering the nature of dispute between the parties and also that the co-accused have been released on bail, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7. 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, Additional Mahila Court, Nagercoil, Kanyakumari District**, 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 } 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 10.30 a.m. for a period of two weeks, thereafter, as and when required for interrogation;

[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/-

03/01/2023

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE,
ADDITIONAL MAHILA COURT, NAGERCOIL,
KANYAKUMARI DISTRICT.
- 2 THE CHIEF JUDICIAL MAGISTRATE
KANYAKUMARI DISTRICT AT 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.ANTO PRINCE G, Advocate (SR-92[I] dated 04/01/2023)

ORDER IN

CRL OP(MD) No.23208 of 2022

Date :03/01/2023

PNM

MK/SSS/SAR III(23.01.2023) 3P 5C

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