



CRL OP(MD). No.19320 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26/10/2023

PRESENT

The Hon`ble Mr.Justice R.SAKTHIVEL

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Gowtham

... Petitioner/ Accused
Rank not known

Vs

The State rep.by,
The Inspector of Police,
Pallathur Police Station,
Sivagangai District.
Crime No.127 of 2023.

... Respondent/Complainant

For Petitioner : Mr.P.Periyasamy, Advocate

For Respondent : Mr.M.Sakthi Kumar,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.127 of 2023 on the file of the respondent Police.



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ORDER : The Court made the following order :-

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The petitioner/Accused, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Sections 448, 294(b), 323, 324, 506(ii) IPC and Section 4 of TNPHW Act, 2002 in Crime No.127 of 2023, on the file of the respondent, filed this petition under Section 438 of Cr.P.C praying to grant an order of pre-arrest bail. It is to be noted that the petitioner does not state the Crime Number in the petition. At the time of hearing this bail petition, learned Government Advocate (Crl.Side) placed a photocopy of FIR for perusal of the Court. Hence, to avoid technicalities, this Court does incorporate the Crime Number in the order.

2. The case of the prosecution is that on 17.10.2023, due to matrimonial dispute, the petitioner and his brother-in-law illegally trespassed into the defacto complainant father's house, assaulted the defacto complainant and her sister-in-law and also threatened them with dire consequences. Based on the complaint given by the defacto complainant, a case was registered in Crime No.127 of 2023 under Sections 448, 294(b), 323, 324, 506(ii) IPC and Section 4 of TNPHW Act.



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3. The learned counsel for the petitioner submitted that the petitioner is the husband of the defacto complainant. Matrimonial dispute is existing between the petitioner and the defacto complainant. Petitioner has not caused any injury to the defacto complainant and her sister-in-law. However, a false case has been foisted by the defacto complainant against the petitioner. Petitioner is a law abiding citizen and ready to furnish any surety as ordered by this Court. Hence, he prayed to allow the petition and to grant an order of pre-arrest bail.

4. The learned Government Advocate (Crl.Side) appearing for the respondent filed a copy of FIR registered against the petitioner. He submitted that a case has been registered against the petitioner for the offences punishable under Sections 448, 294(b), 323, 324, 506(ii) IPC read with Section 4 of TNPHW Act in Crime No.127 of 2023 on 18.10.2023 based on the complaint of the defacto complainant. He further submitted that due to matrimonial dispute, the petitioner and his brother-in-law illegally trespassed into his father-in-law's house and caused injury to the defacto complainant and her sister-in-law. If the petitioner is enlarged on anticipatory bail, he would commit similar kind of offence and cause threat to the defacto complainant and her sister-in-law. Hence, the learned Government Advocate (Crl.Side) objected to allow the petition and to grant an order of pre-arrest bail.



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5. Heard on both sides. This Court has perused the records.

6. Admittedly, neither the defacto complainant nor her sister-in-law sustained any injury and not admitted in the hospital. Considering the nature of matrimonial dispute between the parties, this Court is inclined to allow the petition by grant of pre-arrest bail, however subject to the conditions:-

7. Accordingly, this Criminal Original Petition is allowed. Pre-arrest bail order is granted to the petitioner subject to the following conditions:-

i) the petitioner is ordered to be released on bail in the event of his arrest or on his surrender before the learned Judicial Magistrate, Karaikudi, Sivagangai District, within a period of 15 days from today, on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Karaikudi, Sivagangai District;

(ii) the petitioner shall appear before the respondent police daily at 10.00 a.m., until further orders;

(iii) the petitioner should not either directly or indirectly cause threat to the defacto complainant and her sister-in-law;



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(iv) the petitioner and the sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judicial Magistrate may obtain a copy of any one of identity proof to ensure their identity;

(v) the petitioner shall not tamper with the evidence or witness either during investigation or trial;

(vi) the petitioner shall appear and co-operate with the Investigating Agency as and when required for investigation;

(vii) if the petitioner absconds, a fresh FIR shall be registered under Section 229 (A) of IPC;

(viii) on breach of any of the aforesaid conditions, the learned Magistrate is entitled to pass appropriate orders against the petitioner in accordance with law, as if the aforementioned conditions are imposed by themselves as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005) 13 SCC 283].

sd/-
26/10/2023

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/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNM

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TO

1. The Judicial Magistrate, Karaikudi, Sivagangai District .

2. Do-Through The Chief Judicial Magistrate,
Sivagangai District.

3. The Inspector of Police,
Pallathur Police Station, Sivagangai District.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.P.SARAVANAN, Advocate (SR-15653[I] dated 30/10/2023)

ORDER
IN

CRL OP(MD) No.19320 of 2023

Date :26/10/2023

RK/VRS (02/11/2023) 6P / 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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