



CRL OP(MD). No.19614 of 2023

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

Date : 03/11/2023

PRESENT
The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.19614 of 2023

A S Anish

... Petitioner/ Accused No.1

Vs

The State rep.by,
The Inspector of Police,
AWPS-Kanyakumari Police Station,
Kanyakumari District.
Crime No.31 of 2023.

... Respondent/Complainant

For Petitioner : Mr.Pon Karthikeyan.R,
Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.31/2023 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A1, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 498(A), 323, 406 and 506(i) of



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IPC, Sections 3(1) and 4 of Dowry Prohibition Act and Section 4 of Tamil Nadu
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Prohibition of Harassment of Women Act, 2002 in Crime No.31 of 2023 on the file of
the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the marriage between the petitioner and the defacto complainant was solemnized on 23.10.2018. At the time of marriage, 87 sovereigns of gold jewels, house articles, worth about Rs.3 Lakhs and a Maruthi Suzuki Desire Car were gifted as dowry by the parents of the defacto complainant. On 23.05.2018 at the time of engagement, the parents of the de-facto complainant gave Rs.5 lakhs cash to the petitioner and present a 7 $\frac{3}{4}$ sovereigns of gold chain. After marriage, the petitioner demanded dowry and harassed her. In the meantime, the de-facto complainant gave birth to a male child. The further allegation is that the petitioner did not take care of his children and wife and compelled her to give divorce and also driven out her. Hence the case.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged in the complaint.



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4.The learned Government Advocate (Crl.side) appearing for the respondent would submit that there was matrimonial dispute between the petitioner and the defacto complainant.

5.Taking note of the facts and circumstances of the case and 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 and taking into consideration the origine of crime, it is seen that the offence alleged as against the petitioner is not a case of heinous crime. Further the petitioner is having permanent residents at Painkulam & Post, Kanyakumari District. Hence 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 satisfied after taking into consideration that the accused has his roots in the community and is not likely to abscond, he can safely be released on his personal bond.



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6. In view of the above, this Court is inclined to grant anticipatory bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his 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), Nagercoil, on condition that the petitioner shall execute own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) 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 shall report before the trial Court on receipt of summons;

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

[c] the petitioner 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 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].



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

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

SJI

TO

1. The Judge, Additional Mahila Court (Magisterial Level), Nagercoil.

2. Do-Through The Chief Judicial Magistrate,
Kanyakumari District @ Nagercoil.

3. The Inspector of Police,
AWPS-Kanyakumari Police Station, Kanyakumari District.

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

+1 CC to M/s.R.PON KARTHIKEYAN, Advocate (SR-15953[I] dated 06/11/2023)

ORDER
IN
CRL OP(MD) No.19614 of 2023
Date :03/11/2023

RK/DD (16/11/2023) 5P / 6C

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