



CRL OP(MD). No.20849 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 21/11/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.20849 of 2023

1. Rameesh Fathima @ Noorul Ramees Fathima,

2. Ipinu Appas @ Ibnu Abbas,

3. Subair @ Mohammed Subayer Ali Masoothu,

4. Riyaz @ Riyas,

5. Asath @ Mohammed Ashad,

... Petitioner/ss/ Accused 3 to 7

Vs

The Inspector of Police,
All Women Police Station,
Srivaikundam,
Thoothukudi District.
(Crime No.12/2023).

... Respondent/Complainant

For petitioners : M/s.B.FAZILKIRMANI,
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.12/2023 on the file of the Respondent
Police.

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



CRL OP(MD). No.20849 of 2023

ORDER: The Court made the following order :-

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The petitioners/accused, who apprehends arrest at the hands of the respondent police for the offences punishable under sections 498(A), 406 and 494 IPC in Crime No.12 of 2023, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the A1 had illicit relationship with A2, and that A1 had quarrelled with the defacto complainant and thrown out her from matrimonial home. Hence, the case.

3.The learned counsel appearing for the petitioners submitted that the petitioners are only siblings of A1 and they are innocent and they have not committed any offence as alleged by the prosecution and their names have been falsely implicated in this case and hence, seeks anticipatory bail.

4.The learned Government Advocate (Crl. Side) appearing for the respondent submitted there was a matrimonial dispute between the husband and wife and the investigation of the case is pending.

5.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



CRL OP(MD). No.20849 of 2023

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petitioners are not a case of heinous crime. Further, the petitioners are having permanent resident at Chennai 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 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.

6. 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 Judicial Magistrate No.I, Thiruvaikundam, on condition that the petitioners shall execute own bonds 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 petitioners shall appear before the trial Court on receipt of summons as



CRL OP(MD). No.20849 of 2023

directed by the trial Court.

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[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 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/-
21/11/2023

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

TRP
TO
1 THE JUDICIAL MAGISTRATE NO.I,
THIRUVIKUNDAM.

2 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, THOOTHUKUDI DISTRICT.



CRL OP(MD). No.20849 of 2023

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SRIVAIKUNDAM,
THOOTHUKUDI DISTRICT.

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

+1 CC to M/s.B.FAZIL KIRMANI, Advocate (SR-16693[I] dated 22/11/2023)

ORDER
IN
CRL OP(MD) No.20849 of 2023
Date :21/11/2023

SA/SKN/SAR. /29.11.2023/5P/6C

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