



Crl.O.P.(MD) No.23639 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

[Criminal Jurisdiction]

Date : 28.12.2023

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

Crl.O.P.(MD) No.23639 of 2023

Murugan

... Petitioner / Accused No.1

Vs

The State

rep.by Inspector of Police,

AWPS Melur,

Madurai District.

(Crime No.26 of 2023)

... Respondent/ Complainant

For Petitioner : Mr.R.Boopathi, Advocate

For Respondent : Mr.M.Veeranthiran

Government Advocate (Crl.side)

PRAYER: Criminal Original Petition filed under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant an order of pre-arrest bail to the petitioner/ A1 in Crime No.26 of 2023 on the file of the respondent police.

ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 27.12.2023 under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant an order of pre-arrest bail.

2.The petitioner/ A1, apprehends arrest at the hands of the respondent police

for the alleged offences punishable under Sections 294(b), 498A and 506(1) of the



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Indian Penal Code, 1860 (Act No.45 of 1860) in Crime No.26 of 2023 on the file of the
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respondent Police.

3.The case of the prosecution is that the marriage between the petitioner and the de-facto complainant was solemnized on 16.03.2023; that thereafter, there arose matrimonial disputes between the petitioner and the de-facto complainant; and that the petitioner caused cruelty to the de-facato complainant. Hence, the case.

4.The learned Counsel for the petitioner submitted that the petitioner is an innocent person and has not committed any offence as alleged by the prosecution. Petitioner and the de-facto complainant are Husband and Wife and the petitioner filed H.M.O.P.No.101 of 2023 before the Subordinate Court, Madurai, seeking divorce from the de-facto complainant. Accordingly, he prayed to grant an order of pre-arrest bail to the petitioner.

5. The learned Government Advocate (Crl.side) appearing for the respondent-Police submitted that totally, there are four accused; that the petitioner and the de-facto complainant are husband and wife; that since their family did not extent through children, the petitioner harassed the de-facto complainant and had a



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relationship outside of marriage with another woman. He further submitted that if this Court grants pre-arrest bail to the petitioner, the petitioner will threat the de-facto complainant and witnesses and thereby, delay the investigation. He further submitted that the investigation is not yet completed. Accordingly, he prayed to dismiss this Criminal Original Petition.

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

7. There is a matrimonial dispute between the petitioner and de-facto complainant and the petitioner has filed H.M.O.P.No.101 of 2023 before the Subordinate Court, Madurai and the same is pending. The petitioner has a permanent residence and there is no possibility of absconding. Considering the nature of the dispute between the petitioner and the de-facto complainant, this Court is of the view that the custodial interrogation of the petitioner may not be necessary for the investigation of the case on hand.

8. Considering the above facts and circumstances of the case, this Court grants an order of pre-arrest bail to the petitioner subject to the following conditions.



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(i) The petitioner shall be released on bail in the event of his arrest or in the event of his surrender before the Judicial Magistrate Court, Melur within a period of 15 days from today, on executing a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand only) with two sureties of which one shall be blood related surety, each for a like sum of Rs.15,000/- to the satisfaction of the Judicial Magistrate Court, Melur, Madurai District;

(ii) The petitioner shall appear and sign before respondent Police daily at 10.30 am until further orders;

(iii) The petitioner shall not enter into the de-facto complainant's house or work place until further orders;

(iv) 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 shall obtain a copy of any one of identity proofs to ensure their identity;

(v) The petitioner shall make himself available for interrogation by police as and when required;



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(vi) The petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(vii) The petitioner shall not leave India without the prior permission of the Court; and

(viii) On breach of any of the aforementioned conditions, the learned Judicial Magistrate/Trial Court is entitled to pass appropriate orders against the petitioner(s) 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].

9. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated supra.

sd/-
28/12/2023

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/01/2024
Sub-Assistant Registrar (C.S. -I,II,III,IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

cmr



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TO
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1. The Judicial Magistrate, Melur, Madurai District.
2. Do through the Chief Judicial Magistrate, Madurai.
3. The Inspector of Police,
AWPS Melur, Madurai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
CRL OP(MD) No.23639 of 2023
Date :28/12/2023

RK/VR (03/01/2024) 6P / 5C
Madurai Bench of Madras High Court is issuing certified copies in this format from
17/07/2023