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Crl.O.P.No.11781 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.05.2024

CORAM:

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

Crl.O.P.No.11781 of 2024

1.Kodiyarasu
S/o.Manikkam

2.Manikkam
S/o.Chinnappan

3.Santhi
W/o.Manikkam

4.Durgadevi
D/o.Manikkam

... Petitioners/ Accused 1 to 4

Versus

State rep. by
The Inspector of Police,
All Women Police Station,
Attur, Salem District,
Crime No.6 of 2024.

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to enlarge the petitioners on bail in the event of their arrest in Crime No.06 of 2024 on the file of the respondent police.

For Petitioners : Mr.Camyles Gandhi W.
For Respondent : Mr.S.Udaya Kumar
Government Advocate (Criminal Side)



ORDER

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This Criminal Original Petition has been filed by the petitioners on 13.05.2024 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 petitioners / accused 1 to 4 apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 498(A), 494, 294(b) and 506(2) of the Indian Penal Code, 1860 (Act No.45 of 1860) in Crime No.06 of 2024 on the file of the respondent-Police.

3. The case of the prosecution is that the *de-facto* complainant is the wife of the first petitioner and petitioners 2 to 4 are in-laws of the *de-facto* complainant. While the *de-facto* complainant was in the matrimonial home, petitioners 2 and 3, who are the father-in-law and mother-in-law verbally abused the defacto complainant and her family as the dowry she brought was insufficient and the same was not taken care of by the first petitioner. The further allegation is that the *de-facto* complainant went to her parental home for child birth, after giving birth to a boy child, the first petitioner has not taken her to home, thereafter, the *de-facto* complainant came to know that the first petitioner married another women. Hence, there arose a quarrel between the



petitioners and the *de-facto* complainant's family, which developed into physical coercion. Hence, the case.

4. The learned counsel for the petitioners submitted that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He further submitted that the petitioners have been falsely implicated in this case. Petitioners have permanent residence and deep roots in the society. Accordingly, he prayed to grant an order of pre-arrest bail to the petitioners.

5. The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that totally there are four accused; that the first petitioner and the *de-facto* complainant are husband and wife; that the petitioners harassed the *de-facto* complainant; that the first petitioner had a relationship with another woman. He further submitted that the petitioners have no previous case. If this Court grants pre-arrest bail to the petitioners, the petitioners will be emboldened to cause threat to the *de facto* complainant and witnesses and thereby, delay the investigation. Accordingly, he prayed to dismiss this Criminal Original Petition.



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

7. The petitioners have a permanent residence with deep roots in this Society. Hence, possibility of absconding is less. Further, there are no previous cases against the petitioners. Considering the nature of the dispute between the petitioners and the *de-facto* complainant, this Court is of the view that the custodial interrogation of the petitioners is not necessary in this case.

8. Considering the above facts and circumstances of the case and with a view to offer an opportunity to reform themselves, this Court is inclined to grant an order of pre-arrest bail to the petitioners subject to the following conditions.

(i) The petitioners shall be released on bail in the event of their arrest or in the event of their surrender before the Judicial Magistrate No.I Court, Attur, within a period of 15 days from today, on executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) along with two sureties each for a like sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the learned Judicial Magistrate No.I, Attur;

(ii) The petitioners shall appear and sign before respondent Police, daily



Crl.O.P.No.11781 of 2024

at 10.00 a.m., until further orders;

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(iii) The sureties shall affix their photographs and left thumb impression in the Application for Surety ship [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;

(iv) The petitioners shall make themselves available for interrogation by police as and when required;

(v) The petitioners 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/her from disclosing such facts to the Court or to any police officer;

(vi) The petitioners shall not leave India without the prior permission of the trial Court; and

(vii) On breach of any of the aforementioned conditions, the learned Judicial Magistrate/Trial Judge is entitled to pass appropriate orders against the



Crl.O.P.No.11781 of 2024

petitioners 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.

16.05.2024

Index : Yes/No
Internet : Yes/No
Neutral citation : Yes/No
ms/mk

Note:-

- 1. Registry is directed to forthwith upload this order in the official website of this Court.**
- 2. All concerned to act on this order being uploaded in official website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.**

To



Crl.O.P.No.11781 of 2024

1. The Judicial Magistrate-I,
Attur
2. DO THROUGH:
The Chief Judicial Magistrate,
Salem.
3. The Public Prosecutor,
High Court, Madras.
4. The Inspector of Police,
All Women Police Station,
Attur, Salem District.

R.SAKTHIVEL, J.



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Crl.O.P.No.11781 of 2024

ms/mk

Crl.O.P.No.11781 of 2024

16.05.2024