



CRL M.P. No.16328 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.11.2024

CORAM

The Hon'ble Mr. Justice P.DHANABAL

Crl. M.P. No.16328 of 2024
in Crl. O.P. No.27100 of 2024

T. Somasundaram F/o. Surya

.... Petitioner

VS

1. Mahendran S/o. Devendran

.. 1st Respondent / Accused

2. State represented by:-

The Inspector of Police,
W-20 All Women Police Station,
Saidapet, Chennai-600 015.
[Cr. No.6 of 2023]

...2nd Respondent / Complainant

PRAYER:- The Criminal Miscellaneous Petition is filed under Section 439(2) of Criminal Procedure Code praying to cancel the anticipatory bail granted to the 1st respondent / Accused vide order passed in Crl. O.P. No.27100 of 2024 by this Court dated 29.10.2024.

For Petitioner : Mr. R. Singaravelan,
Senior Counsel
for Mr. J. William Shakeshere



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For Respondents : Mr. Swami Subramanian
[for R1]

Mr. S. Balaji [for R2]
Govt. Advocate (Crl. Side)

ORDER

This petition has been filed by the petitioner / defacto complainant to cancel the anticipatory bail granted to the 1st respondent, who is the accused in Cr. No.6 of 2023 on the file of the 2nd respondent police, vide order passed in Crl. O.P. No.27100 of 2024 by this Court dated 29.10.2024.

2. The learned Senior counsel appearing for the petitioner would contend that the petitioner is the father-in-law of the 1st respondent and the marriage between his daughter and the 1st respondent took place on 29.09.2015. Thereafter, both the husband and wife lived in Germany, thereafter family dispute arose between the parties, thereby the 1st respondent without any valid reason, not involved in the matrimonial life and he assaulted the daughter of the defacto complainant many times and the 1st respondent did not have permanent job at Germany and did not let



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the petitioner's daughter to travel to India and blocked all the contacts with her family members. Even though, the petitioner's daughter's salary was transferred to the bank account of the 1st respondent, she was not allowed to be financially independent and when his daughter was 34 weeks pregnant, the Doctor had advised his daughter not to travel alone and to travel along with someone. However, the 1st respondent persisted the daughter of the petitioner to travel alone and to go to Tiruvarur. Further the 1st respondent along with his family members demanded dowry. Thereby, they harassed the petitioner's daughter. Therefore, she lodged a complaint before All Women Police Station, Saidapet and also filed a petition under Section 156(3) of Cr.P.C. before the IX Metropolitan Magistrate, Saidapet, Chennai in Crl. M.P. No.7906 of 2023 and the 2nd respondent police filed an FIR in Cr. No.6 of 2023 against the accused under Section 498(A) of IPC. Thereafter, the sections were altered from 498(A) of IPC to Sections 313, 325, 406, 420 and 506(i) of IPC read with Section 3 and 4 of Dowry Prohibition Act, 1961 based on the order passed by this Court in Crl. O.P. No.17653 of 2023 dated 07.08.2023.



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2.1. The learned Senior counsel for the petitioner would further submit that the 1st respondent had filed a petition for anticipatory bail before this Court and anticipatory bail was granted on condition to appear before the 2nd respondent police. But the accused failed to appear before the respondent police and breached the conditions imposed by this Court vide order passed in Crl. O.P. No.27100 of 2024. One of the conditions is that the accused shall not leave India without prior permission of the Court. But the 1st respondent tried to escape from India and planned to board a flight in Mumbai Airport, whereas the Mumai Airport Immigration officers have found the accused and locked him in order to prevent him from escaping. Further, the 1st respondent illegally attempted to take the child from the custody of the mother/the daughter of the petitioner and hence they have also taken steps to file appropriate petition for the custody of the child and already the German Court has given the joint custody of child with both the father and mother and now without the knowledge of the mother, the accused attempted to take the child to Germany and therefore, the anticipatory bail granted to



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the 1st respondent / accused has to be cancelled.

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3. The learned counsel appearing for the 1st respondent / accused would contend that the defacto complainant has lodged a false complaint against this 1st respondent for the offence under Section 498(A) of IPC and thereafter he filed a petition for anticipatory bail in Crl. O.P. No.27100 of 2024 and the same was granted in favour of the accused on 29.10.2024. As per the order of this Court, the 1st respondent surrendered before the concerned Metropolitan Magistrate and he executed sureties. One of the conditions is that without prior permission of the Court, he cannot leave India. But he never tried to leave India without permission of the Court. Now, only in order to take vengeance due to the family dispute, the defacto complainant has filed the present petition to cancel the anticipatory bail granted to the 1st respondent by this Court. There is no any grounds to attract to cancel the bail. As far as the custody of the child is concerned, already the Court of Australia has ordered the custody of child to the 1st respondent father, hence he is entitled for the custody of the child and the child is in his custody for a



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long time. Therefore, the present petition is liable to be dismissed.

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4. The learned Government Advocate (Criminal side) appearing for the 2nd respondent police would submit that as per the order of this Court, the 1st respondent / accused has complied the condition imposed by the Court without fail.

5. Heard both sides' arguments and perused the materials available on record.

6. It is an admitted fact that there is a family dispute pending between the parties and already this Court granted anticipatory bail to the 1st respondent considering the nature of offences, the matrimonial dispute pending between the parties and there is no any previous case pending against the 1st respondent. Now the defacto complainant has filed the present petition to cancel the anticipatory bail granted to the 1st respondent / accused by stating that he has not complied with conditions imposed by this Court and he attempted to leave India without prior permission of the Court and also attempted to take the child with him forcibly from the custody of the mother.



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7. This Court already granted anticipatory bail after taking into consideration of all the aspects and as per the 2nd respondent police, the 1st respondent / accused has complied the conditions without fail and this Court also imposed condition earlier not to leave India without permission of the Court. Already this Court also granted permission to the 1st respondent to go to Germany for job purpose after accepting the reasons stated by him through order in Crl.M.P. No.16017 of 2024. Now the present petition is filed by the defacto complainant that the 1st respondent attempted to leave India with the child.

8. This Court, while deciding the bail application, cannot decide the custody of the child. Therefore, the parties are at liberty to take appropriate steps in accordance with law in respect of the custody of the child and already this Court granted anticipatory bail to the 1st respondent after taking into consideration all the aspects including the matrimonial dispute. There are no valid grounds to interfere in the order passed by this Court and there are no grounds to cancel the anticipatory bail and hence, this petition has no merits and deserves to be dismissed.

9. Accordingly, the Criminal miscellaneous Petition is dismissed.



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No costs.

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index: Yes/No

Internet: Yes/No

Speaking/Non Speaking order

mjs

P.DHANABAL,J

mjs

To

1. The Public Prosecutor, High Court, Madras.
2. The Inspector of Police, W-20 All Women Police Station,
Saidapet, Chennai-600 015.

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