



Crl.O.P.No.28623 of 2023

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C.V.KARTHIKEYAN, J.

The petitioners, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 323, 324 and 506(ii) of IPC and Section 4 of the Woman Harassment Act, in Crime No. 697 of 2023, seek anticipatory bail.

2. These petitioners are technically strangers to the marital life between the defacto complainant and her husband, who are now at logger heads by filing cases before the Family Court and in other Courts and in one of the Court / VII Additional family Court, visitation had been granted to the defacto complainant to visit the children, who is in the custody of these petitioners. When the defacto complainant went over to the house to visit the children, it is the case of the respondent/prosecution that these petitioners had denied access and had segregated the children away and prevented her from meeting the children.



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3. The matter came up on earlier occasion on 22.01.2024. The Court sought an affidavit to be filed both by the petitioner and the defacto complainant giving the details about compliance/ non compliance of the order granting visitation.

4. The defacto complainant had filed an affidavit wherein the compliance relating to the directions of the Family Court had been given. It is seen that from 03.12.2022 onwards till 03.02.2024 only on three occasions, the defacto complainant had the benefit of having interactions with her own children. This is an extremely story state for a mother to be placed.

5. The first petitioner herein has filed an affidavit and she is the mother of the husband of the defacto complainant. That in itself shows that external influence is being exerted on the children of the defacto complainant not only by the father but by the every other surrounding relative of the father.



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6. In the affidavit, she had levelled various allegations against her daughter-in-law. There is a matrimonial issues and it should be resolved between the parties and it does not lie in the mouth of the mother-in-law of the defacto complainant to give her opinion as to who should have the custody of the children and whether the mother should have visitation rights.

7. This Court was of the opinion that the father would come forward to participate in these proceedings. But his absence shows that he is also not directly or indirectly interested in the welfare of the children but only interested in ensuring that the dispute with his wife continues so that he can hold on to the children without examining whether it is to their benefit or not.

8. The affidavit by the first petitioner is rejected by this Court.

9. So far as the allegations are concerned, it is only against these petitioners, who have prevented the defacto complainant from having access to the children. The quarrel escalated into violence. Normally



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this Court would have grant anticipatory bail on these issues with eye closed. There are issues of custody of two young children. There cannot be a situation when every time the children are brought for visitation rights, the mother and father begin making allegations against each other.

10. Let me not hold these aspects against these petitioners. The second and third petitioners are said to be the sister-in-law and brother of the husband of the defacto complainant. They have no manner of right or interest or can claim any interest over the children or proclaim that they have welfare of their children in their heart. They cannot have. It is clear that any interest shown is only to ensure that some order is obtained before this Court.

11. I am not inclined to grant anticipatory bail to the third petitioner/brother of the husband of the defacto complainant, who should lead his own life and should not interfere in the life of his brother, who is also married. Accordingly, this Criminal Original Petition stands dismissed as against the third petitioner.



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12. Taking all the factors in to consideration, this Court is inclined to grant anticipatory bail to the petitioners 1 & 2 with certain conditions.

13. Accordingly, the petitioners 1 & 2 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 Principal District and Sessions Court, Madhavaram, on condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of this Court concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioners 1 & 2 and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.



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[b] the petitioners 1 & 2 shall appear before the respondent police daily at 10.30 a.m., until further orders.

[c] the petitioners 1 & 2 shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioners 1 & 2 shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners 1 & 2 in accordance with law as if the conditions have been imposed and the petitioners 1 & 2 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]**.

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

06.02.2024

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