

In the Court of the Principal District Judge, Madurai.

Present : Tmt.A. Nazeema Banu, B.A., L.L.M.,

Principal District Judge, Madurai.

Tuesday, this the 14th day of July -2020.

CrI.M.P.No.3297/2020

1. L.Chidambara Senthil Vignesh, S/o.Lakshmanan
 2. Manonmani @ Vinitha, W/o.S.Murugan
 3. S.Murugan, S/o.Sankaran
 4. M.Lakshmanan, S/o.Manonmani
 5. C.L.Velammal, W/o.Lakshmanan
- ... Petitioners/Accused.

Vs

State through the Inspector of Police,

Thirupparankundram AWPS.Cr.No.8/2020 ... Respondent/Complainant.

This petition taken up today for hearing at request through e.mail/ e.petition and after hearing the arguments of Thiru.A.K.Alagarsamy, Advocate for the petitioner and of Thiru.M. Tamil Chelvan, the Public Prosecutor for the state over conference call, this court passed the following

Order

1. Anticipatory Bail application u/s. 438 of Cr.p.c.
2. The offences alleged are under section 294(b), 420 and 506(i) of IPC.
3. The defacto complainant/intervening petitioner has filed an intervening petition and he is permitted to assist the public prosecutor.

4. Heard.

5. The learned counsel for the petitioners would submit that 1st petitioner got engaged to the defacto complainant. The 2nd petitioner is the sister of the 1st petitioner, 3rd petitioner is the husband of the 2nd petitioner, 4th and 5th petitioners

are the father and mother of the 1st petitioner. There was a betrothal between the defacto complainant and the 1st petitioner on 2.12.2019 and the marriage was fixed on 30.3.2020. There was a marriage talks between both the 1st petitioner's family and the defacto complainant's family. The defacto complainant's parents have agreed to give Rs.5 lacs for articles and they have also agreed to put 50 sovereigns of jewels to the defacto complainant. The case of the prosecution is that the 1st petitioner has again demanded additional sum of Rs.2 lacs for the expenditure which was refused by the defacto complainant. The 1st petitioner has also criminally intimidated the defacto complainant after betrothal. The 1st petitioner put 3 sovereigns of jewels to the defacto complainant, and it is now with the defacto complainant. There was a phone conversation between the 1st petitioner and the defacto complainant after the betrothal and at the time of conversation, the defacto complainant told the 1st petitioner that she would not give birth to a child and she would like to adopt her aunt's child , which was refused by the 1st petitioner. Further, the defacto complainant asked the 1st petitioner to shift over from Thirunelveli to Madurai after the marriage. Due to misunderstanding between both of them, both preferred complaint before the Commissioner of police, Madurai and the same was forwarded to the Social Welfare Officer and she has given report dated 17.2.2020 in which the Social Welfare Officer has stated that there was no dowry demand. Earlier, the petitioners have moved anticipatory bail before the Hon'ble High Court in CrI.O.P.(MD) No.2906/2020 and it was disposed of, since no FIR has been

registered against the petitioners. This is the 1st petition, filed by the petitioners after the registration of the FIR in this case. Further Section 420 of IPC would no way attract in this case and there is no intention for the petitioners to cheat the defacto complainant and there was a dispute between the 1st petitioner and the defacto complainant after the betrothal, because of the attitude of the defacto complainant.

6. Further, the learned counsel for the petitioners while advancing his argument has relied on the decision of the Hon'ble Supreme Court in C.A. No. 1221/2019 (Petition for Special Leave to Appeal (crl.) No.2232/2018 dated 8.8.2019, wherein His Lordship Justice N.V. Ramana & Ajaj Rastogi has held that

“3. Having Carefully scrutinized the material available on record, we are of the considered view that the High Court has passed the impugned order, without application of its mind, by revoking the bail granted to the appellant by the Additional Sessions Judge-3, Nagpur in Misc Criminal Application No.1847 of 2017, on the ground that the application was not maintainable before the Trial Court as the appellant previously approached the High Court for bail and subsequently withdrew the bail application.

4. It may be mentioned in this connection that there is no provision in the Code of Criminal Procedure, 1973 or law laid down by this Court that once an accused has withdrawn his bail application before the High Court, he cannot file a subsequent bail application before the Sessions Court and that his subsequent bail application would lie before the High Court Only.

5. Thus, the impugned order of the High Court is not sustainable in the eyes of law and deserves to be set aside.

6. In view of the above, we set aside the impugned order of the High Court revoking the bail granted to the appellant by the Sessions Court Order dated 20.09.2017 passed by the Additional Sessions Judge-3, Nagpur in Misc. Criminal Application No.1847 of 2017 granting bail to the appellant is hereby restored.

7. Needless to state, if the appellant is in jail, he shall be released forthwith if he is not required in any other case.”

Therefore, the anticipatory bail would lie before this court, because the anticipatory bail was disposed by the Hon'ble High Court in Crl.O.P.(MD) No.

2906/2018 dated 24.2.2020, wherein it is stated that the criminal original petition is disposed of, since no FIR has been registered against the petitioners.

7. The learned public prosecutor and the learned counsel for the intervening petitioner while advancing their argument have submitted that the defacto complainant is working as Assistant Engineer in Department of Rural Development at Madurai and at the time of marriage talk, the petitioners have not demanded any jewels, but at the time of engagement, the petitioners have demanded 50 sovereigns of jewels and Rs. 5 lacs for house hold articles, which was accepted by the defacto complainant. The defacto complainant has spent Rs. 2 lacs for the betrothal and she has also offered watch, ring to the 1st petitioner at the time of betrothal. After betrothal, the 1st petitioner has demanded to book 30 A/c halls for 3 days for the marriage and they have also demanded another 5 lacs and Rs. 2 lacs for the expenditure and they are cheated the defacto complainant.

8. The learned public prosecutor, while advancing his argument has further stated that the petitioners have earlier moved anticipatory bail before the Hon'ble High Court and the same was dismissed as withdrawn and has raised a strong objection in granting anticipatory bail.

9. This Court has carefully perused the material records of the case and the rival submission put forth by either parties. It is the case of the petitioners that after seeing the attitude and character of the defacto complainant and her

father against whom a criminal case is pending, it was decided to stop the marriage and hence such a false complaint was given against the petitioners. It is pertinent to mention here that already the 1st petitioner had given a complaint before the Commissioner of Police on 10.02.2020. The defacto complainant had also given complaint to the Commissioner of police and an enquiry was conducted by the Social Welfare Officer, Madurai on 13.02.2020. The 1st and 5th petitioners' had given statements and the defacto complainant and her father also given statements to the social welfare officer. The Social Welfare officer after going through the statements had clearly submitted report that no allegation is made out and no document was produced to prove the demand of dowry and other allegations of the defacto complainant.

10. It was also stated that the petitioners have earlier moved anticipatory bail in CrI.O.P.(MD) No. 2906/2020 and the same was closed on 24.2.2020, since no FIR was registered. Now the present complaint was given with improved version in order to attract the petitioners under penal provisions.

11. The learned counsel for the petitioners would further submit that the petitioners have moved anticipatory bail before the Hon'ble High Court , which was disposed of wherein Crime No.not known. This is the 1st anticipatory bail filed by the petitioners, after the registration of the FIR in this case and therefore, this should be construed as 1st anticipatory bail petition filed after the registration of FIR in this Case. The learned public prosecutor has stated that

even if it is dismissed as withdrawn, subsequent petition will not lie before the Court of Sessions. But, here is the case, where the anticipatory bail petition is disposed of and not dismissed and it was disposed in the stage, wherein no FIR has been registered against the petitioners. Therefore, His Lordship has stated that however, if the respondent registers an FIR against the petitioners, the petitioners will be put on notice, so that, the petitioners will have breathing time to move this Court again for anticipatory bail. Therefore, the argument advanced by the learned counsel for the petitioners that this is the 1st bail application after the registration of the FIR in this case and therefore, the petitioners have got every right to move this anticipatory bail, since it is being the 1st anticipatory bail application after registering the FIR and the earlier bail application was not dismissed as stated by the learned public prosecutor and it is disposed. Therefore, after registering of the FIR, the petitioners have moved the 1st anticipatory bail before this Court and they have not filed any anticipatory bail before the Hon'ble High Court needs to be accepted by this Court.

12. The learned counsel for the petitioners while advancing his argument has fairly admitted that some of the articles of the defacto complainant are with the 1st petitioner and he has also agreed to handover the same to the defacto complainant. At the same time 3 sovereigns of gold chain which was put to the defacto complainant at the time of betrothal is now in the hands of the defacto complainant. Therefore, this Court holds that it is a fit case, where the parties

are to be referred to mediation. Therefore, this Court is inclined to grant interim anticipatory bail to the petitioners till 24.8.2020.

13. In the result, in the event of arrest or on their surrender before the Court concerned, the Petitioners are ordered to be enlarged on **interim anticipatory bail** on their executing own bond each for a sum of Rs.10,000/- to the satisfaction of the Judicial Magistrate concerned till 24.8.2020. The matter has been referred to mediation for amicable settlement. Call on 24.8.2020.

Pronounced by me in Camp Court on the 14th day of July -2020.

Sd/- A.Nazeema Banu

Principal District Judge, Madurai

Copy to

1. The Judicial Magistrate concerned
2. The Inspector of Police, Thirupparankundram AWPS.
3. The Petitioner through his counsel.