

IN THE COURT OF THE SESSIONS JUDGE, ALAPPUZHA

Present: Sri. Jobin Sebastian, Sessions Judge

Friday the 6th day of January, 2023

Crl. M.P. No. 5189/2022

(Crime No.1450/2022 of Alappuzha North Police Station)

Petitioners: 1. Sunl S., 33 years, S/o. Sadasivan, Nerayath Purayidom, Kanjiramchira ward, Alappuzha.
2. Sudha Sadasivan, 65 years, W/o. Sadasivan, of ..do..
3. Sadasivan, 73 years, S/o. Thankappan, of ..do..
4. Thulasi Shaji, 56 years, W/o. Shaji, Veliyil veedu, Kanjiramchira ward, Alappuzha.
By Adv. V. Vijayakumar

Respondent: State of Kerala, rep.by the Home Secretary, to Govt. through the Station House Officer, Alappuzha North Police Station
Rep.by the Public Prosecutor, Alappuzha.

This petition having been heard on 05.01.2023 and the court on 06.01.2023 passed the following:

ORDER

This petition for Anticipatory bail has been filed by accused Nos.1 to 4 in Crime No.1450/2022 of Alappuzha North Police Station, registered alleging commission of the offence punishable under Sections 498 A r/w. Sec.34 of IPC.

2. The prosecution allegation can be summarized as follows:- The marriage between the defacto complainant and the first accused was solemnized as per religious rites and ceremonies and while both of them were residing along with the other accused in the matrimonial home, the first accused misappropriated her entire gold ornaments and money. Moreover, all the accused had subjected her to cruelty both mentally and physically by saying stinging words and also by saying that she is too lean. Moreover, on 30-11-2022 at 11 p.m., while the defacto complainant was taking bed rest after appendicitis surgery, the first accused had assaulted her and compelled her to have sex with him. Hence, the accused are alleged to have committed the above mentioned offences.

3. I heard both sides and perused the case diary.

4. The learned counsel for the petitioners submitted that the petitioners are absolutely innocent of the allegations levelled against them. Marriage between

the defacto complainant and the first petitioner was solemnized on 13-8-2017 and a boy child was born in their wedlock. After marriage, the parents of the defacto complainant were not in good terms with the petitioners and the present case is foisted at their instigation. The defacto complainant had left the company of the first petitioner without any valid reason and now she is residing with her parents. The petitioners never subjected the defacto complainant to any cruelty. The petitioners are ready to abide by any condition imposed by the court in the event of granting pre-arrest bail.

5. The learned Public Prosecutor opposed the application.

6. From a perusal of case diary, it can be seen that, this case arose out of a matrimonial discord existing between the first petitioner and the defacto complainant. Second and third petitioners are the mother and father of the first petitioner and fourth petitioner is the sister of third petitioner. Though there is allegation of physical assault, no materials are there in the case diary to show that the defacto complainant sustained any injury or she sought any medical aid. Even the prosecution is not having a case that the defacto complainant had sustained any grievous injuries. Prima facie it appears that, the dispute arose out of the matrimonial disharmony prevailing between the first petitioner and the defacto complainant and if the petitioners are remanded to judicial custody, possibility of reunion of the spouses will be spoiled for ever. The nature of allegations suggest that, custodial interrogation of the petitioners is not necessary for the progress of investigation in this case. Therefore, I am of the view that, anticipatory bail can be granted to the petitioners, on conditions.

In the result, this petition is allowed on the following conditions :

1. The petitioners shall be released on bail in the event of their arrest in connection with the above crime on they executing bonds for ₹50,000/- each, with two solvent sureties each for the like sum to the satisfaction of the Investigating Officer.
2. The petitioners shall appear before the Investigating Officer as and when required.

... 3 ...

3. The petitioners shall not intimidate or influence the witnesses or tamper with the evidence.
4. The petitioners shall not commit any offence while on bail.

(Dictated to the Confidential Assistant transcribed and typed by her, corrected and pronounced by me in open Court, this the 6th day of January, 2023).

Sd/-
SESSIONS JUDGE
ALAPPUZHA