

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2020

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8255 of 2020

Lakshmanan

... Petitioner

/Vs/

The State rep by
The Inspector of Police,
Mathur Police Station,
Krishnagiri,
Krishnagiri District.
(Crime No.474 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under section 439 of Cr.P.C., to enlarge the Petitioner on Bail pending investigation in Crime No.474 of 2020 on the file of the respondent police.

For Petitioner : Mr.G.Punniakoti

For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

* * * * *

ORDER

The petitioner was arrested and remanded to judicial custody on 27.04.2020 for the offences punishable under Sections 304(ii), 308 of IPC read with 135(1)(a) of Electricity Act in Crime No.474 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant namely Sadhasivam along with his brother and his friends during mid night of 27.04.2020, had gone for hunting of forest rat and rabbits around 1.00 a.m., near Parvathamalai Foot Hills his brother stumbled and fell down, came into contact with live electric fencing installed by the petitioner to his land and the adjacent field of one Thimmarayan and the power by hooking to a high tension power line. Thereafter, the other friends who had gone to rescue his brother also sustained shock and burn injuries. Later they called the service of 108 Ambulance taken him to the hospital where he was found dead and hence the complaint.

3. The contention of the petitioner is that the electric fence was not

put in the field of the petitioner and it was in the field of Thimmarayan and the defacto complainant and others had gone for hunting of forest rat and rabbit in pitch dark stumbled and fell up on the electric fence which was laid to avoid the field getting damaged from the wild boars. It was purely an accident. Without prejudice to his rights and defence he is volunteer to pay Rs.1,00,000/- (Rupees One Lakh only) on humanitarian consideration to the family of the deceased.

4. The learned Additional Public Prosecutor submitted that the petitioner along with his son had laid the electric fence illegally without getting permission and following the prescribed regulations wherein the electric fence would be energized with a particular volt. The petitioner and his son had extended the electric fence to the adjacent field of Thimmarayan and further the power had been hooked directly from the high tension power lines, without the permission of the Electricity Board and thereby heavy voltage power had been passed to the fence, which cause death of the victim. The act of the petitioner is in clear violation of rules and regulations, endangering the life of the persons and opposed the bail petition.

5.The learned Additional Public Prosecutor further submitted that the family members of the petitioner had gone to the defacto complainant's house on 16.06.2020 with cash of Rs.1,00,000/- (Rupees One Lakh only) accompanied by Sivakumar-The Sub-Inspector of Police and Moorthy-Advocate. The parents of the deceased were not willing to receive the amount of Rs.1,00,000/-. They were found in an agitated mood for losing their son and they are refused to receive the same.

6. Considering the case, this Court is inclined to grant bail to the petitioner. The petitioner to deposit of Rs.1,00,000/- in the said Crime No.857 of 2018 and the defacto complainant and his family members are at liberty to withdraw the said amount of Rs.1,00,000/- at any time. This deposit of Rs.1,00,000/- would not be construed as admitting of guilt of the petitioner in any manner.

7. Taking into consideration the nature of allegations against the petitioner in the FIR and also taking note of the fact that the petitioner

is in judicial custody from 27.04.2020, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the concerned prison, in which the petitioner has been confined on their release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(d) the petitioner shall report before the respondent police as and when required for interrogation.

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or

trial;

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner 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]*;

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

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Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order
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To

1. The learned District Munsif cum Judicial Magistrate,
Pochampalli.
2. The Superintendent,
Central Prison, Salem.
3. The Inspector of Police,
Mathur Police Station,
Krishnagiri,
Krishnagiri District.
4. The Public Prosecutor,
High Court of Madras.

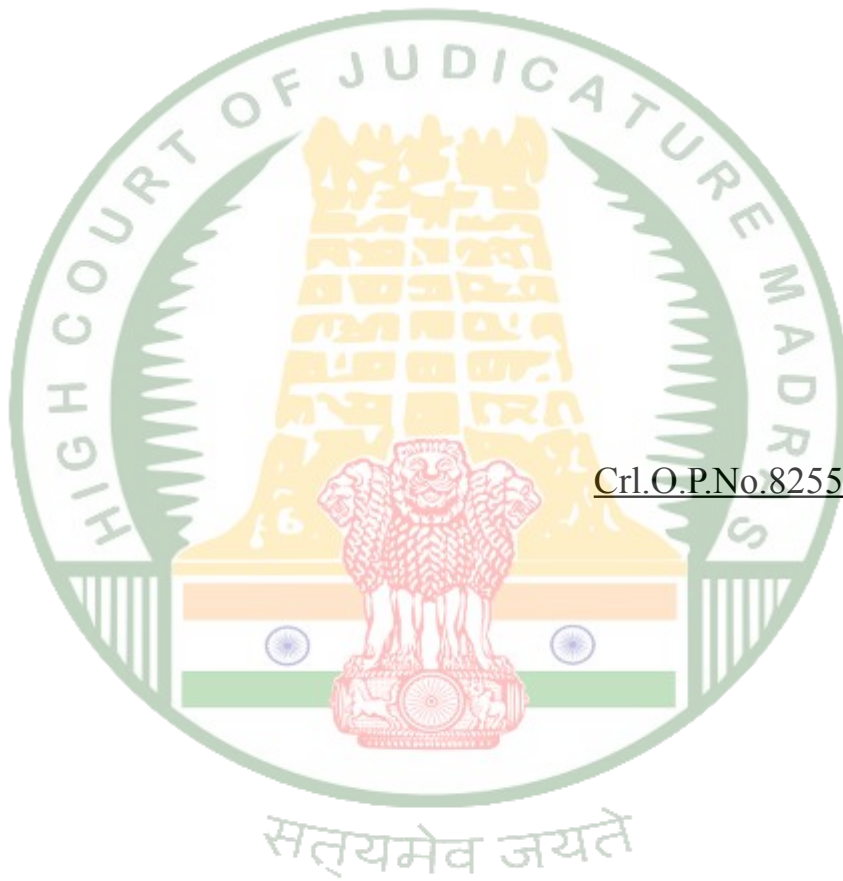


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M.NIRMAL KUMAR,J.

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