

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No. 13525 of 2020

Kamaraj

... Petitioner/Accused

Vs.

State represented by,
The Inspector of Police,
Kanakamma Chatram Police Station,
Thiruvallur District.
Crime No.1531 of 2020

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 1531 of 2020, on the file of the respondent police.

For Petitioner : Mr.G.B.Motcham

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (CrI. Side)

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 27.07.2020 for the offences punishable under Sections 174 Cr.P.C and thereafter altered to 304(ii) of IPC in Crime No.1531 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the defacto complainant viz., Mangammal, is that the petitioner had electrified the fence in his field and that when her husband viz, Rajan and his friend Arumugam had gone for hunting and they were electrocuted in the fence and passed away.

3 The learned counsel appearing for the petitioner would submit that the petitioner is a poor farmer and that he has taken the field belonging to one Madhivanan to lease and that he was not aware of the electrification of the field fencing and then he being a poor man have been arrested and that he is in custody from 27.07.2020. He would further submit that even as per the FIR, there is no allegation that the petitioner had wilfully or intentionally done it. Hence, he prays to grant bail to the petitioner.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner had taken the field of one Madhivanan for lease and he had electrified the fence in the field and that the deceased who had gone there for hunting, got in touch with the fence and got electricuted and died.

5 Taking into consideration of the facts and circumstance of this case and also considering the fact that the petitioner is in jail from 27.07.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions:-

(a) Accordingly, the Petitioner is ordered to be released on bail on executing 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 and thereafter on his release;

(b) the petitioner shall execute two sureties, each for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the learned Judicial Magistrate, Thiruvallur, within 15 days from the date of lifting of the lock down or the commencement of the Court's normal functioning or which ever is earlier, 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 every day at 10.30 a.m., until further orders.

(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.

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

-sd/-
04/09/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
THIRUVALLUR.

2 THE SUPERINTENDENT,
CENTRAL PRISON, CHENGALPATTU.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
AKNAKAMMA CHATRAM POLICE STATION,
THIRUVALLUR DISTRICT.

+1 CC to M/S.G.B.MOTCHAM Advocate on payment of necessary charges
SR.No.6135

सत्यमेव जयते

CRL OP.13525/2020

cs 08/09/2020

Date :04/09/2020

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