

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

CrI.O.P.No.2977 of 2021

Senkalrayan

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Moranam Police Station
Thiruvannamalai District.
(Crime No.29 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in Crime No.29 of 2021 pending investigation on the file of the Respondent.

For Petitioner : Mr.V.R.Appaswamee

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner is a sole accused. The petitioner apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 304(2) of I.P.C. and Section 136(1) (a) of Electricity Act, 2003, in Crime No. 29 of 2021, on the file of the respondent police, and now, he has filed this petition seeking to grant anticipatory bail.

2. The case of the prosecution is that the petitioner is a owner of agricultural land, where he has installed electric fencing without prior permission from the authority. The deceased, a old lady, was trying to cross the fencing, she has got electrocuted and died on the spot. Hence, the criminal case has been registered against the petitioner. Now, apprehending arrest, the present petition has been filed.

3. The learned counsel appearing for the petitioner submitted that the petitioner is the owner of the property and he did not put up any fencing around his land. He would submit that when the deceased was trying to put on the electric motor pump set, she has got electrocuted and died. Hence, a false case has been registered against the petitioner. He would submit that he is an innocent person and he is no way connected with the offence. On instruction, he would further submit that without prejudice to his right and contentions, he is prepared to pay some considerable amount to the family of the

deceased. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner has illegally put up a fencing and when the deceased has tried to cross the fencing, she has got electrocuted. He would submit that the investigation is also completed and there is no previous case pending against the petitioner. However, he opposed to grant anticipatory bail to the petitioner.

5. Taking into consideration of the voluntary submission made by the petitioner offering to pay considerable amount to the family of the deceased, this Court is of the opinion that the petitioner may be directed to pay a sum of Rs.50,000/- (Rupees Fifty thousand only) to the family of the deceased without prejudice to his right and contention before the trial Court.

6. Merely, because the petitioner has deposited the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

7. Taking into consideration of the fact that the investigation is completed and there is no bad antecedents against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following stringent conditions:

a) Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Cheyyar, Thiruvannamalai Dt., on condition that the petitioner shall deposit a sum of Rs.50,000/- to the credit of Crime No.29 of 2021, and on such deposit, the learned Judicial Magistrate, Cheyyar is directed to hand over the amount to the victim family and he shall also execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, and on further condition that:

[b] 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;

[c] the petitioner shall appear before the respondent police as and when required for interrogation;

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioner shall not abscond either during investigation or trial;

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners 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];

[g] 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/-

17/02/2021

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,
CHEYYAR, THIRUVANNAMALAI DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MORANAM POLICE STATION,
THIRUVANNAMALAI DISTRICT

CC to M/S.V.R.APPASWAMEE Advocate on payment of necessary charges sr.1787

CRL OP.2977/2021

Date :17/02/2021

RVR 24/02/2021