

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.3332 of 2021

V.Dhamotharan

... Petitioner

-Vs-

State Represented by
Inspector of Police,
Nemili Police Station,
Vellore.
(Crime No.17 of 2021)

... Respondent

Prayer: Criminal Original petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioner on bail in the event of his arrest in Crime No.17 of 2021 is pending on the file of the respondent police.

For Petitioner : Mr.R.Pragadeeswaran

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

The case has been heard through video conference

The petitioner, who apprehends arrest for the alleged offences under Sections 304(2) of I.P.C. and 138(1)(a) of Indian Electricity Act, 2003, in Crime No.17 of 2021, on the file of the respondent/Police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner is the owner of the agricultural land and to protect his agricultural land from the pig, the petitioner put up the electric fence around his land without getting proper permission from the concerned official and while crossing the fence, the defacto complainant's husband got electrocuted and died on the spot. Hence, the petitioner seeks Anticipatory Bail.

3. The learned counsel appearing for the petitioner submitted that is the lessee of the agricultural land and not the owner. He is not aware of the fact that whether the owner of the land put up any electrical fencing around the cultivating the land and that he has been falsely implicated in this case. He would further

submit that there is no previous case pending as against the petitioner. He would further submit that the petitioner is ready and willing to deposit considerable amount without prejudice to his contention and prays for anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that the petitioner put up a electrical fence without getting proper permission from the concerned officials. Hence, he vehemently opposed for the grant of anticipatory bail to the petitioner.

5. Considering the fact that the petitioner is a lessee of the land and alleging that he is not responsible of the electrical wire fencing and the other facts and circumstances of the case and that the investigation is also completed, and there is no previous case pending as against the petitioner, this court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Rupees only) to the credit of Crime No.17 of 2021, before the learned Judicial Magistrate Court, Arakonam, within a period of eight weeks from the date on which the order copy made ready, and the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Judicial Magistrate, Arakonam, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and 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.

[b] before executing sureties, the petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Rupees only) to the credit of Crime No.17 of 2021, before the concerned Judicial Magistrate, within a period of eight weeks from the date on which the order copy made ready.

[c] the final order in respect of the said deposit shall passed by the learned trial Judge at conclusion of trial.

[d] the petitioner shall appear before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] the petitioner shall not abscond either during investigation or trial.

[g] On breach of any of the aforesaid conditions, the learned 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].

[h] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
22/02/2021

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 COURT,
ARAKONAM.

2 THE CHIEF JUDICIAL MAGISTRATE,
VELLORE [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
NEMILI POLICE STATION,
VELLORE.

+1 CC to M/S R.M.SRINIVAS Advocate on payment of necessary charges SR NO. 2130

CRL OP.3332/2021

Date :22/02/2021