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Crl.O.P(MD) No.19083 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2022

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL.O.P.(MD)No.19083 of 2022

Mohanraj

... Petitioner/ Sole Accused

Vs.

The State,
Represented by its
The Sub Inspector of Police,
Vachakarapattti Police Station,
Virudhunagar District,
Crime No.172 of 2022.

... Respondent /Complainant

Prayer: Criminal Original petition is filed under Section 439 of Cr.P.C., to enlarge the petitioner on interim bail in Crime No.172 of 2022 on the file of the respondent Police for enable the petitioner to perform his son Silambarasan's final rituals.

For Petitioner : Mr.R.Venkatesan

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate(Crl. Side).



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ORDER

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Heard the learned counsel on either side.

2. The petitioner was arrested and remanded to judicial custody on 20.10.2022 in connection with Crime No.172 of 2022 on the file of the Vachakarapatti Police Station, Virudhunagar District. The said case came to be registered at the instance of the Assistant Engineer, EB Sub Station, Thulukkapatti, RR Nagar, Virudhunagar District. The case was registered for the offence under Section 304(II) IPC. The occurrence is said to have taken place on 20.10.2022. The petitioner is owning a piece of land in the said village. He had fenced his agricultural land and also illegally electrified them. The petitioner wanted to protect the agricultural produces against the wild boars. Unfortunately, two individuals accidentally appeared to have come in contact with the same and died as a result. The petitioner was arrested, following the registration of the FIR. Though today is a holiday for the Court, on special sitting, this Bail Petition filed by the petitioner is being taken up on mentioning being made by the learned counsel appearing for the petitioner.

3. The petitioner's son, namely, Silambarasan is said to have died in an accident at 1.30 am today (i.e., on 24.10.2022). The petitioner has to perform



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the final rites for his son. Therefore, this Petition has been moved on emergent basis.

4. The learned Government Advocate appearing for the respondent, on instructions, stated that the petitioner is not having any bad antecedents.

5. Normally this Court will not entertain Bail Petition straight away. The accused will have to necessarily move the Court below at the first instance. But considering the special facts and circumstances, I am inclined to entertain the Bail Petition.

6. Though the petitioner has asked only for interim bail, I am inclined to grant regular bail to the petitioner, since *prima facie* it appears to be a case of accident. The petitioner, of course, should not have illegally electrified the fence. The petitioner will have to necessarily face the consequences for the same. The petitioner definitely would not have intended the death of the victims. Be that as it may, the petitioner has lost his son who has three girl children. Incarceration of the petitioner will not serve any purpose. But the petitioner shall have to appear as and when required by the respondent.



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7.Considering the facts and special circumstances obtaining in this

case, the following directions are issued:-

- a) The petitioner is presently confined in District Jail, Virudhunagar District. On production of certified copy of this order, the Superintendent, District Jail, Virudhunagar District shall release the petitioner today itself so that he can attend the final rites of his son.
- b) The petitioner shall appear before the concerned Jurisdictional Magistrate Court on 15.11.2022 and 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 learned Judicial Magistrate No.1, Virudhunagar.
- (c) the petitioner is directed to appear before the respondent police as and when required for interrogation.
- (d) on breach of any of the aforesaid conditions, the 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 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]***.



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8. The learned Government Advocate (Crl. Side) is directed to intimate Superintendent of District Jail, Virudhunagar District to release the petitioner today evening, i.e., on 24.10.2022 itself on production of certified copy of this order.

9. This Criminal Original Petition is allowed accordingly.

**24.10.2022
(G.R.S.J)**

vji

Note:

Issue order copy immediately.

Copy to:

1. The Judicial magistrate No.1, Virudhunagar.
2. The Superintendent, District Jail, Virudhunagar.
3. The Government Advocate (Crl.Side), Madurai Bench of Madras High Court.



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G.R.SWAMINATHAN, J.

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