



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 04/01/2023

WEB COPY

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD) . No.84 of 2023

R.Arivanantham

... Petitioner/Accused

Vs

The State rep.by,
The Inspector of Police,
Gandamanur Vilakku Police Station,
Theni District.
(Crime No.193 of 2022).

... Respondent/Complainant

For Petitioner : M/s. Sukumar.B,
Advocate.

For Respondent : Mr.P.Kottaichamy,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

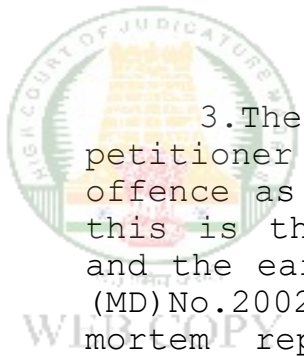
PRAYER :-

For Anticipatory Bail in Crime No.193 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused who apprehends arrest at the hands of the respondent police for the offences punishable under Section 174 Cr.P.C @ 304(ii) of I.P.C., in Crime No.193 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the de-facto complainant is the father of the deceased Ayyanan. On 01.11.2022 at about 06.00 a.m., when the deceased was working in the petitioner's garden, accidentally he touched the E.B. wire, due to which, he was electrocuted due to illegal electric fencing and as a consequence, he died. Hence, the complaint.



3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He would further submit that this is the petitioner's second application for anticipatory bail and the earlier application was dismissed by this Court in CrI.O.P. (MD)No.20023 of 2022, dated 11.11.2022 on the ground that the post-mortem report is not received and the investigation is not completed. He would further submit that now major part of the investigation is also over. He would further submit that it is an unfortunate accident and that the petitioner, without prejudice to his defence, is ready and willing to pay an amount of Rs.3,00,000/- as ex-gratia amount to the parents of the deceased (father and mother) and he would pray that the anticipatory bail may be granted to the petitioner.

4.The learned Government Advocate (CrI. side) appearing for the respondent would submit that when the deceased an unmarried man was working in the petitioner's garden, accidentally he touched the illegally electrified fence, due to which, he was electrocuted and as a consequence, he died. Hence, he would oppose for grant of anticipatory bail to the petitioner.

5.Heard. Perused the materials available on record including the First Information Report.

6.Taking into consideration the facts and the submissions and also the voluntary undertaking given by the petitioner that he is ready to pay a sum of Rs.3,00,000/- as ex-gratia amount to the family of the deceased, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions:

7.Accordingly, the petitioner shall, within fifteen days from the date of receipt of a copy of this order, deposit a sum of Rs.3,00,000/- (Rupees Three Lakhs only) to the credit of Crime No.193 of 2022 on the file of the learned Judicial Magistrate, Aundipatti, Theni District, without prejudice to his rights and contentions and on such deposit being made, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate, Aundipatti, Theni District, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 verify their identity.



[b] the petitioner shall report before the respondent Police, daily at 10.30 a.m., for a period of four weeks and thereafter, on every Saturday at 10.30 a.m., until further orders.

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

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

[e] the learned Magistrate shall issue notice to the parents of the deceased and disburse the amount of Rs.3,00,000/- to them. Since because the petitioner has deposited the amount, it would not amount to admission of guilt.

[f] 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].

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

sd/-

04/01/2023

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

sj i
TO

1. THE JUDICIAL MAGISTRATE, AUNDIPATTI, THENI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI.

3 THE INSPECTOR OF POLICE,
GANDAMANUR VILAKKU POLICE STATION,
THENI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.SUKUMAR.B ---, Advocate (SR-121[I] dated 04/01/2023)

ORDER

IN

CRL OP(MD) No.84 of 2023

Date :04/01/2023