



CRL OP(MD). No.14185 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/09/2024

PRESENT

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

CRL OP(MD). No.14185 of 2024

Alagumalai,

... Petitioner/Sole Accused

Vs

The Inspector of Police,
Kadamalaikundu Police Station,
Theni District.
(Crime No.253/2024).

... Respondent/Complainant

For Petitioner : M/s.Kannan Gurusami, Advocate.

For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL UNDER SECTION 482 OF BNSS

PRAYER :-

For Anticipatory Bail in Crime No.253/2024 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Sole Accused, who apprehends arrest at the hands of the



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respondent police for the offence punishable under Section 105 of BNS Act, in Cr.No.253 of 2024, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner herein has erected electric fencing to prevent the animals from entering the agricultural fields and spoiling the crops. When the deceased Mariappan tried to pass that place, he died due to being electrocuted. Hence, the complaint.

3.Heard both sides.

4.This is yet another case where the fencing, which is erected to prevent the animals from entering the agricultural fields and spoiling the crops, has resulted in the death of the human being. The report of the Deputy Superintendent of Police, Theni District filed earlier is taken note of. It is repeatedly represented before this court that the Forest Officials as well as the Electricity Board Officials are doing joint patrolling. But however, the report of the Deputy Superintendent of Police, Theni District, reveals that the most of the farmers are practicing the method of erecting live wire fencing to protect their crops. The same is resulting in repeated deaths of human beings as well as animals such as elephants etc.,. Already, the government of Tamil Nadu has framed the rules wherein the farmers are requested to erect solar fencing. In spite of rules being framed and in spite of repeated orders of the Hon'ble Division Bench of this Court, the steps are not being taken by all the Law Enforcing Agencies.



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5. It is stated that in three Taluks, namely, Mayiladumparai, Varusanadu and kadamalaikundu, there are about 48 villages, that are abutting the Western Ghats, the majority of the farmers are using this technique. Therefore, emergent steps have to be taken to advise all the farmers not to indulge in live wire / electrical fencing and to erect the fencing as per the rules which will be solar powered.

6. Let a copy of this order be marked to the District Collector, Theni, the District Forest Officer, Theni and the Executive Engineer of TANGEDCO, Theni.

7. As far as the facts of the present case is concerned, the petitioner is said to be owner of the property. As per the first information report, the deceased came into contact with the live wire fencing and died instantaneously. Considering the fact that some compensation Rs.1,10,000/- is said to have been paid to the deceased and that the petitioner has stated before this court that he has already removed the fencing and even the Deputy Superintendent of Police, Theni, himself has overseen the act of removal of fencing and also considering the argument of the learned counsel for the petitioner that the petitioner will strive for the eradication of the live wire fencing and also himself install and also advise the other farmers to install only the solar fencing, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of

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arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Andipatti, Theni District, 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 to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions 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) the petitioner shall file an undertaking affidavit before the trial Court that the petitioner will strive for the eradication of the live wire fencing and also himself install and also advise the other farmers to install only the solar fencing;

(c) the petitioner shall report before the respondent police daily at 10.30 a.m, for a period of three weeks and thereafter, 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 petitioner in accordance with
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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]; and;

(g)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
03/09/2024

/ TRUE COPY /

/ 09 / 2024
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS

TO

1 THE JUDICIAL MAGISTRATE
ANDIPATTI THENI DISTRICT.

2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.

3 THE INSPECTOR OF POLICE
KADAMALAIKUNDU POLICE STATION,
THENI DISTRICT.

4 THE DEPUTY SUPERINTENDENT OF POLICE,
THENI.

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

+1 CC to M/s.KANNAN GURUSAMY, Advocate (SR-10793[I] dated 03/09/2024)

ORDER
IN
CRL OP(MD) No.14185 of 2024
Date :03/09/2024

PSP/ SG /SAR /21.09.2024/ 6P/ 7C

Madurai Bench of Madras High Court is issuing certified
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