

***IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH***

***CRM No.M-35029 of 2015 (O&M)
Date of Decision: 18.01.2016***

Raja Ram

... Petitioner

Versus

State of Haryana

... Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Atul Yadav, Advocate for the petitioner.

Mr. Vivek Saini, DAG, Haryana.

....

TEJINDER SINGH DHINDSA.J.

Petitioner seeks the concession of pre-arrest bail in case FIR No.391 dated 19.06.2015, under Sections 135 of the Electricity Act registered at Police Station I & P Gurgaon, District Gurgaon.

Suffice it to notice that the complainant in the present case is Dakshin Haryana Bijli Vitran Nigam Ltd. (hereinafter to be referred to as 'the Nigam') and the allegations are pertaining to theft of electricity. During the course of arguments, it has gone uncontroverted that the present petitioner/accused had instituted a suit seeking injunction with regard to this connection against the Nigam and in which civil Court had directed the present petitioner to deposit half of the total amount i.e. 3,80,161/-. As per directions of the civil Court, 50% of the amount has already been deposited.

Counsel for the petitioner would contend that as per a policy formulated by the Nigam, there is a provision for waiver of a certain amount upon deposit of 50%. It is further contended that a settlement in the light of such policy is in the process of being finalized.

On 27.11.2015, the following order was passed by this Court:

Learned counsel for the petitioner submits that out of total amount of Rs.3,80,161/-, half of the amount has been deposited as per orders passed by the civil Court and the remaining amount would be deposited subject to the decision given by the civil Court.

Since the matter is pending before the civil Court and out of total amount, half of the amount has been deposited, the petitioner is directed to join investigation and in the event of his arrest, he shall be released on interim bail to the satisfaction of the Arresting Officer. He shall join the investigation as and when required by the Arresting Officer. He shall also comply with the conditions as envisaged under Section 438(2) of the Code of Criminal Procedure, which are as under :-

- (i) that the petitioner shall make himself available for interrogation before arresting officer as and when required;*
- (ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;*
- (iii) that the petitioner shall not leave India without the prior permission of the Court.*

Adjourned to 18.01.2016.”

Learned State counsel upon instructions from HC Rajender Singh would apprise the Court that even though the petitioner has joined investigation but he has deposited only 50% of the assessment charges. State counsel would submit that there are certain charges in the nature of compounding etc. which would be over and above the assessment charges.

Be that as it may be, the matter admittedly is before the Nigam and a settlement is in the process of being finalized. Needless to mention that the petitioner would be obligated to pay the entire amount as would be worked out in the settlement between the petitioner and the Nigam.

Under such circumstances, custodial interrogation of the petitioner is not warranted.

Petition is allowed. Order dated 27.11.2015 passed by this Court is made absolute.

Petition disposed of.

18.01.2016

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**