

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

***CRM No.M-41859 of 2015 (O&M)
Date of decision : 30.05.2016***

Gurbachan Singh and another

... Petitioners

Vs.

State of Haryana & another

... Respondents

2. CRM No.M-42959 of 2015 (O&M)

Jasmer Singh

... Petitioner

Vs.

State of Haryana & another

... Respondents

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

Present: Mr. Arun Sharma, Advocate for the petitioner(s).
Mr. Vivek Saini, DAG, Haryana.
Mr. Ashish Yadav, Advocate for the complainant.

...

TEJINDER SINGH DHINDSA, J.

This order shall dispose of CRM No.M-41859 of 2015 titled as Gurbachan Singh and another Versus State of Haryana and another and CRM No.M-42959 of 2015 titled as Jasmer Singh Versus State of Haryana and another as both these connected petitions filed under Section 438 Cr.P.C. seeking concession of pre-arrest bail to the petitioners herein arise out of the same FIR i.e. FIR No.537 dated 01.10.2015, under Section 136 of the Indian Electricity Act, 2003, registered at Police Station Gharaunda, District Karnal.

Briefly, it may be noticed that the allegations against the present petitioners are that they have erected High Tension Lines/Transformers and thereby consumed electricity unauthorizedly. Complainant is Uttar Haryana Bijli Vitran Nigam Limited (in short 'the Nigam').

On 12.01.2016, the following order was passed by this Court in

both these connected petitions:

“On 5.1.2016, the following order was passed by this Court:-

“Learned counsel appearing for the petitioners in these two connected petitions has produced in Court today copies of electricity bills and which as per him relate to the same very H.T. Lines/Transformers which form a subject matter of the F.I.R in question. Contention raised by the counsel is that the Nigam having itself erected/affixed the Transformers as also the H.T. Lines and the necessary dues having already been paid by the petitioners, the allegations contained in the F.I.R would be wholly unfounded.

Copies of the bills have been furnished to learned counsel appearing for respondent no.2 in Court today. Counsel for respondent no.2 prays for time to complete instructions with regard to the contentions raised by counsel for the petitioners.

Adjourned to 12.1.2016.

A copy of this order be placed on the connected case file.”

Learned counsel appearing for respondent no.2-Nigam would submit that he has completed instructions in the matter and it has been found that the H.T. Lines/Transformers which form a subject matter of the F.I.R have been erected by the petitioners unauthorizedly. However, he would concede that pertaining to these very H.T. Lines/Transformers the Nigam had raised electricity bills in the month of October, 2015 and the same have been duly settled by the petitioners.

Under such peculiar circumstances, even though, an offence may have been made out against the petitioners as regards unauthorizedly erecting/affixing certain H.T. Lines/Transformers but the Nigam itself has been raising bills with regard to electricity having been drawn therefrom and has been accepting payment in regard to such bills.

Under such circumstances, petitioners are directed to

join investigation and to appear before the I.O. on 22.1.2016.

List on 8.3.2016.

In the event of arrest, the petitioners shall be released on interim bail subject to the satisfaction of the Arresting Officer/ Investigating Officer. The petitioners shall join investigation as and when called upon to do so and they shall remain bound by the conditions envisaged under Section 438 (2) Cr.P.C.

A copy of this order be placed on the connected case file.”

During the course of hearing today, it has gone uncontroverted that pertaining to the same very High Tension Lines/Transformers which formed part of the allegation, the Nigam has raised bills and which the petitioners have already settled.

Counsel appearing for the Nigam has informed the Court that after registration of the FIR, even the electricity supply to such unauthorized High Tension Lines/Transformers has been cut off.

Petitioners are otherwise stated to have already joined investigation.

The question as regards High Tension Lines/Transformers in question having been unauthorizedly erected/energized would be a subject matter of investigation, leading of evidence and subsequent trial.

In view of the above, this Court is of the considered view that custodial interrogation of the petitioners would not be warranted.

Accordingly, both these connected petitions are allowed.

Orders dated 12.01.2016 in CRM No.M-41859 of 2015 titled as Gurbachan Singh and another Versus State of Haryana and another and in CRM No.M-42959 of 2015 titled as Jasmer Singh Versus State of Haryana and another passed by this Court are made absolute.

Disposed of.

30.05.2016

(TEJINDER SINGH DHINDSA)
JUDGE