

\$~14

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ BAIL APPLN. 2571/2016

MOHD. ASIF

..... Petitioner

Through Ms.Heena Sharma and Mr.Suhail
Malik, Advs.

versus

STATE

..... Respondent

Through Mr.Panna Lal Sharma, APP with SI
Shekhar, PS Sadar Bazar.

CORAM:

HON'BLE MR. JUSTICE P.S.TEJI

O R D E R

%

16.12.2016

CrI.M.A. 19539/2016 (Exemption)

Application is allowed subject to just exceptions.

Bail Appln. 2571/2016 & CrI.M.B. 2217/2017 (Interim Bail)

The present application under Section 438 Cr.P.C. has been filed for the grant of anticipatory bail in FIR No.188/2015, under Sections 135/150 of the Electricity Act, Police Station Sadar Bazar.

The allegations levelled against the applicant/petitioner are that he is the owner of the premises in question and he had been using the premises through co-accused Shahid. The premise was being used for running machines. The electricity was being used by directly stealing from the pole and total connected load was found to be 39.266 KW/NX/DT (Not Domestic). As a result, FIR was lodged against the petitioner and his co-accused.

Counsel for the petitioner submits that he is a registered

landlord and it was in fact the tenant who had been committing the theft and not the present petitioner. During the course of arguments, it was submitted that machines are being run in the premises. Though there was registered electricity connection in the premises in question but direct theft of electricity was also found at the time of conducting raid. It is not in dispute that to use the premises for a specific purpose, the permission of the landlord/owner is required which means that the use of electricity in the premises could be with the permission/consent of the landlord/owner, when the premises itself is let out for running the machines by direct theft of electricity, which falsifies the arguments advanced that the theft was being permitted without the consent of the petitioner.

It is pertinent to mention that similar application bearing Bail Appln. No.2531/2016 of the petitioner having similar allegations with regard to first floor of the same premises was dismissed by this Court on 09.12.2016.

This Court is not agreeable with the counsel for the petitioner that premises can be let out to run the machines and theft of the electricity dissolved the criminal liability of the petitioner. In such a scenario, this Court does not find any ground to grant anticipatory bail to the petitioner/applicant.

Application is accordingly dismissed.

Dasti.

P.S.TEJI, J

DECEMBER 16, 2016
dd