

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.44249 of 2017**

Arising Out of PS.Case No. -99 Year- 2017 Thana -BHAGALPUR KOTWALI District-  
BHAGALPUR

=====

Anil Kumar Das @ Anil Kumar, Son of Late Ram Tahal Ram, Resident of  
Mohalla- Ram Krishna Path, Jail Road, P.S.- Tilkamanjhi, Dist.- Bhagalpur.  
..... Petitioners

Versus

1. The State of Bihar.  
2. Bhagalpur Electricity Distribution Company Pvt. Ltd., Bhagalpur.  
..... Opposite Party

=====

**Appearance :**

For the Petitioner/s : Mr. Vivekanand Vivek, Advocate  
For the Opposite Party/s : Mr. Vinay Kirti Singh, Sr. Advocate  
Mr. Akhileshwar Singh, Advocate  
Mr. Vijay Kr. Verma, Advocate  
For the State : Smt Indu Kumari Srivastava, APP

=====

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

**3. 17-10-2017** Heard learned counsel for the petitioner,  
learned counsel for the South Bihar Power Distribution  
Company Limited and learned Additional Public Prosecutor  
for the State.

The petitioner, in the present, case, is seeking  
Anticipatory Bail in connection with Kotwali (Tilkamanjhi)  
P.S. Case No. 99 of 2017 for the offences under Sections  
135(1) of Electricity Act.

Learned counsel for the petitioner has made a  
pointed argument that there is no reason for making this  
petitioner an accused in the present case. Learned counsel



submits that the meter in question is in the name of the mother of this petitioner, and, therefore, technically she is the consumer in the register of the electricity company. Further his submission is that on a bare perusal of the seizure memo and the inspection report, which are part of Annexure-1, it will appear that the name of this petitioner has been written as user/owner on the statement of one Sulochana Devi who is the renter in the premises and in whose presence the raid was conducted.

Learned counsel submits that this petitioner is not residing in the premises and it is apparent from the seizure memo and inspection report itself that in course of inspection by vigilance team the said Sulochana Devi was found there as renter and she was served with this seizure memo. In the inspection report, this petitioner has been described as owner as stated by the user.

Submission is that the premises is in the name of the mother of this petitioner and even if for the argument sake it is accepted that the petitioner is owner, there cannot be a vicarious liability against this petitioner for the offences alleged under Section 135 of the Electricity Act,



2003.

Learned counsel submits that in the present case, the petitioner is not even residing in the premises and one Sulochana Devi is there, hence impleadment of the present petitioner for the purpose of 135 of the Electricity Act seems suspicious.

On the other hand, learned counsel representing the South Bihar Power Distribution Company Limited submits that this petitioner is the owner of the premises and hence he has been rightly made an accused.

This court has perused the materials available on the record. At one place petitioner has been described in the column of user/owner as stated by user. Sulochana Devi has been shown as renter in the seizure memo and inspection report in whose presence the raid was conducted by the vigilance team. Submission of learned counsel that Section 135 of the Electricity Act does not create a vicarious liability on the owner of the premises when he is not involved in theft of the electricity has got force.

Considering the nature of the case and the submissions of the parties, In the event of his



arrest/surrender before the court below within a period of four weeks, let the petitioner above-named be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Bhagalpur, in connection with Kotwali (Tilkamanjhi) P.S. Case No. 99 of 2017, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

*Rajeev/-*

**(Rajeev Ranjan Prasad, J.)**

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

