

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE SIDE**

**ANTICIPATORY BAIL APPLICATION NO. 7 OF 2017**

1 Nazim Niyamulhaq Shaikh.  
2 Mrs. Mehajabeen Niyamulhaq Shaikh.  
3 Mrs. Maajeeda Niyamulhaq Shaikh. ... Applicants.  
Versus  
The State of Maharashtra. ... Respondent

Ms. Kripali H. Rajani, advocate for applicants.

Ms. R.M. Gadhvi, APP for State.

API R.B. Phad, Bhivandi Town Police Station, Thane City.

**CORAM : SMT. SADHANA S. JADHAV, J  
DATE : JANUARY 5, 2017.**

**P.C.**

1 Heard the learned Counsel for the applicant and the learned APP  
for State

2 This is an application under section 438 of the Code of Criminal

Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 168 of 2016 registered at Bhiwandi City Police Station on 17/11/2016 for offence punishable under section 427 of the Indian Penal Code and under section 138 of Indian Electricity Act, Section 3 of Damage to Public Property Act.

3 It is the case of the prosecution that the elder brother of the applicant No. 1 and 2 i.e. Javed Shaikh has illegally tampered with the electricity meter of Torant Company. It is alleged that there was theft of electricity. According to the prosecution, the meter stands in the name of the applicants. The applicant No. 2 happens to be a gynaecologist who is married daughter of applicant No. 3. According to the prosecution, the applicants have aided and abetted and authorised Javed Shaikh to tamper with the electricity meter of Torant Company and committed theft of electricity.

4 The learned Counsel for the applicants submits that it is true that the meters stand in their name, however, they cannot be held responsible for the act of the co-accused. It is in these circumstances that the applicants deserve pre-arrest bail.

5 However, it is made clear that the observations made herein above are restricted to the application under section 438 of the Code of Criminal Procedure, 1973 and shall not be considered at the time of deciding the application for discharge or quashing of FIR or at the time of trial.

6 Hence, following order is passed :

**ORDER**

- (i) The application is allowed.
- (ii) In the event of arrest in C.R. No. 168 of 2016, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/-each

and one or more sureties in the like amount.

(iii) The applicants shall report to the concerned police station as and when called by the Investigating agency after issuing notice under section 160 of the Code of Criminal Procedure, 1973.

7 The application is disposed of accordingly.

**(SMT. SADHANA S. JADHAV, J)**