

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

**ANTICIPATORY BAIL APPLICATION NO.1880 OF 2018
WITH
ANTICIPATORY BAIL APPLICATION NO.1881 OF 2018**

Ramesh Raghunath Patil

.. Applicant

Vs.

State of Maharashtra

.. Respondent

.....

Mr.Vinod Gangwal, Advocate for the Applicant.

Mr.R.M. Pethe, APP for the Respondent – State.

Mr.J.H. Chavan, Borivali Police Station, present in ABA 1880 of 2018.

Mr.Ghavhane, Shantinagar Police Station, present in ABA 1881 of 2018.

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CORAM : PRAKASH D. NAIK, J.

DATED : SEPTEMBER 19, 2018.

P.C. :

Applicant apprehends arrest in connection with C.R. No.II-57 of 2018 registered with Narpoli Police Station, Bhiwandi, District – Thane and C.R.No.II-285 of 2018, registered with Shantinagar Police Station, Bhiwandi, District – Thane. C.R. No.II-57 of 2018 was registered for the offences punishable under Sections 336 and 427 of Indian Penal Code (For short

“IPC”) and under Section 138 of Electricity Act, 2003 as well as Section 3 of the Prevention of Damage to Public Property Act, 1984. Whereas, C.R. No.II-285 of 2018 was registered for the offence under Section 135 of the Electricity Act.

2 C.R. No.II-57 of 2018, was registered on 19th July, 2018. It is alleged that the complainant is the Manager of Torrent Power Limited, Bhiwandi, District - Thane. Applicant was the consumer of the Torrent Electricity Company. However, due to non-payment of arrears the company has disconnected the electric meter of the applicant on 15th June, 2017. On 18th July, 2018, the complainant had noticed that the applicant - accused issuing the electric supply by illegal connections of Torrent Power. Panchanama was made in that regard. The applicant - accused had connected cable to LT Line of Torrent Power Limited causing damage to the complainant - company and also endanger human life. Offence vide C.R. No.385 of 2018, has been registered against him on 3rd July, 2018, and there are arrears of Rs.2,57,700/-, from the applicant towards electricity charges. The accused thereby committed offence under Section 138 of the Electricity Act as well as offences under Sections 336 and 427 of IPC as well as Section 3 of the Damage to Public Property Act.

3 As far as C.R.No. II- 285 of 2018, prosecution case is that the applicant has committed theft of electricity. He had connected cable by tapping them illegally and used electricity supply. The applicant - accused has committed theft of 4962 Units of electricity valued Rs.80,374.80 thereby committed offence under Section 135 of Electricity Act.

4 Applicant preferred an application for anticipatory bail in connection with both the FIR's. The said applications were rejected vide order dated 10th September, 2018.

5 Learned counsel for the applicant submitted that false case has been registered against the applicant. The complaint is filed with malafide intention to recover the amount. The complainant cannot resort to criminal proceedings for the purpose of recovering electrical charges. Applicant has already paid the vigilance charges, which were levied when the raid was conducted by the complainant by paying Rs.23,000/-, in cash and also an amount of Rs.17,151/- by cheque. Applicant is using Solar Panel and the purchase invoice is dated 17th January, 2018. FIR is false. The complainant failed to recover the outstanding dues and since the applicant had installed Solar Power Energy, the FIR is

lodged out of vengeance. The complainant had given a complaint on 27th June, 2016 to Narpoli Police Station that some employees of the complainant had threatened him that if he does not pay the outstanding bill and stating FIR of theft of electricity would be lodged against him. No notice required under Section 41(A) of Cr.P.C. was given to the applicant. The issue is of civil nature and no offence is made out against the applicant. Custodial interrogation of the applicant is not necessary. It is further submitted that the applicant would co-operate with the investigation and his arrest is not necessary.

6 Learned APP submitted that under the garb of Solar Power Energy, the applicant has been utilizing the electricity of the complainant by tampering with the electrical cable and by committing theft of the electricity. It is submitted that the electricity connection of the applicant was disconnected for non-payment of electricity charges and the FIR has been registered against him. Applicant then tampered with the electric cable by connecting the cable to LT Line of Torrent Power Limited thereby causing damage as well as endangering human life. It is submitted that the complaint was lodged by the applicant after knowing that action will be initiated against him.

7 In addition to the submissions, learned counsel for the applicant had relied upon the decision of this Court in the following cases:

- 1 *Ashok Bampto Pagui Vs. Agencia Real Conaconda Pvt. Ltd.*¹;
- 2 *Harsh Sawhney Vs. Union Territory of Chandigarh*²;
- 3 *Chandraswami Vs. Central Bureau of Investigation*³;
- 4 *Gurbaksh Singh Sibbia & Ors. Vs. State of Punjab*⁴;
- 5 *State by C.B.I. Vs. Anil Sharma*⁵.

8 On perusal of the documents on record, more particularly, the first information report, it is apparent that the allegation against the applicant is that he has tampered with the electricity line by connecting cable to LT Line of Torrent Power Limited. The electricity connection of the applicant was earlier disconnected on 15th June, 2017, for non-payment of arrears. In spite of that the applicant did not clear the dues and has allegedly involved in tampering with the electrical cable. The electricity supply was disconnected on 15th June, 2017. The alleged Solar System was installed on 17th January, 2018. Apparently, there is a gap of six months during which the applicant was not having legal connection. It is alleged that by

1 MANU/MH/0321/2007

2 1978 Cr.L.J. 744

3 AIR 1997 SC 2575

4 MANU/SC/0251/1980

5 MANU/SC/0947/1997

using cable the applicant obtained illegal supply of electricity connecting LT Line of Torrent Power Limited. Specific role has been assigned to the applicant. The applicant is involved in both these cases. The decisions relied upon by the advocate for the applicant are not applicable in the present case. The same were delivered in different context. Most of the decisions are relating to grant of bail. Considering the nature of allegations made in both FIR's registered against the applicant, no case for granting relief under Section 438 of Code of Criminal Procedure, is made out, and, hence, both these applications are rejected.

(PRAKASH D. NAIK, J.)