

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

CRI. ANTICIPATORY BAIL APPLICATION NO.2141 OF 2018

Gurdipsingh K. Pruthi	.. Applicant
Vs.	
State of Maharashtra	.. Respondent

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Mr.N.V. Sawant, Advocate for the Applicant.
Mr.Arfa Sait, APP for the Respondent – State.
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CORAM : PRAKASH D. NAIK, J.

DATED : OCTOBER 16, 2018.

P.C. :

This is an application for anticipatory bail in C.R.No.II-3686 of 2017, registered with MSEDCL Police Station, Kalyan, District – Thane, for the offence punishable under Section 135 of the Electricity Act, 2003. The First Information Report was lodged alleging that the applicant has committed theft of electricity. FIR was lodged on 30th October, 2017. Applicant has preferred an application for anticipatory bail before the Sessions Court, which was rejected on 13th November, 2017.

2 Thereafter, the applicant had preferred anticipatory bail application no.764 of 2017, before this Court. Learned

counsel for the applicant submitted that by order dated 18th April, 2018, interim protection was granted to the applicant by this Court in Anticipatory Bail Application No.764 of 2018. Said application, however, was dismissed for non prosecution on 8th June, 2018. It is submitted that for the circumstances beyond his control, the applicant could not pursue the said application, and, hence, preferred this fresh application for anticipatory bail. It is submitted that in accordance with Section 154(5) of the Electricity Act, the applicant had deposited an amount of Rs.15,00,000/-, under protest. The electricity connection was discontinued. It is submitted that the applicant has preferred a Writ Petition in this Court in which order was passed on 14th November, 2017. Considering the fact that the applicant had deposited an amount of Rs.15,00,000/-, under protest without prejudice to his rights and contentions to be raised and decided by the Special Court and had submitting the undertaking that the applicant shall regularly pay the electricity charges as per the demand of the MSEDCL and the electricity connection was restored in accordance with the order dated 24th November, 2017.

3 Learned APP submitted that the issue relating to disconnection of electricity and the provisions of Section 154 Sub

Section (5) of the Electricity Act, and the offences relating to theft under Section 135 of the Electricity Act, are distinct in nature. Both the issues cannot be mixed up. Applicant has committed theft of electricity and the manner in which the theft is committed, the applicant is not entitled for the relief under Section 437 of Cr.P.C. I have perused the FIR and the order passed by the Division Bench of this Court. In view of the deposit made by the applicant, without prejudice to his rights and contentions, the electricity connection is directed to be restored to the applicant, and, it is noted that the applicant had also filed an undertaking that he would continue to pay regular charges. Thus, the issue in respect to the theft of electricity is a matter of adjudication in the peculiar facts and circumstances of this case. Applicant can be directed to report the concerned police station with protection under Section 438 of Cr.P.C. Hence, case for grant of the relief under Section 438 of Cr.P.C., is made out.

4 Hence, I pass the following order:

:: ORDER ::

- (i) In the event of arrest of the Applicant in connection with C.R. No.II-3686 of 2017,

registered with MSEDCL Police Station, Taluka-Kalyan, District-Thane, he may be released on his furnishing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

- (ii) Applicant shall attend the concerned police station as and when called for by the Investigating Officer, till the filing of the Charge - sheet;
- (iii) Anticipatory Application No.2141 of 2018, stands disposed of.

(PRAKASH D. NAIK, J.)