

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRM-M No.24762 of 2018
Decided on: 16.07.2018**

Subodh Kataria

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Deepak Shabharwal, Advocate
for the petitioner.

Mr. Sidakmeet Singh, AAG, Punjab.

Mr. Kirpal Singh, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of anticipatory bail in FIR
No.406 dated 26.04.2018 registered under Section 135 of the Electricity
Act, 2003 at Police Station Anti Power Theft, District Jalandhar.

Vide order dated 01.06.2018, the petitioner was granted
interim anticipatory bail, which reads as follows:-

*“Prayer in this petition is for grant of anticipatory
bail to the petitioner in FIR No. 406 dated 26.04.2018,
registered under Section 135 of the Electricity Act, 2003 at
Police Station Anti Power Theft, District Jalandhar
(Annexure P-1).*

*Learned counsel for the petitioner submits that the
petitioner filed a suit for permanent injunction against the
complainant-Punjab State Power Corporation Ltd. and
the Additional District Judge, Jalandhar, vide order dated
25.05.2018, has directed to restore the electricity
connection within a period of two days subject to deposit*

*of 50% of the penalty amount i.e. ₹1,02,29,988/-. Learned counsel for the petitioner further submits that the petitioner has filed **FAO No. 2943 of 2018** in which the petitioner has given undertaking that as the amount is on higher side, he cannot pay the same in one go and is ready to pay the amount in installments of ₹10,00,000/- per month. The order dated 31.05.2018 passed in **FAO No. 2943 of 2018** is reproduced below:*

“Learned counsel states that he would not pray for more relief which was granted by the Trial Court but only prays that instead of requiring the appellant to make entire deposit immediately he may be allowed some installments. As per the learned counsel there is extreme urgency in the matter because as of now the appellant is running cold storage on generator set which is a prohibitive cost. Notice of motion for 5.6.2018. Respondents be served by way of dasti process.”

Notice of motion for 16.07.2018. In case the petitioner deposits an amount of ₹10,00,000/- on or before 07.06.2018 with the complainant-Corporation, the arrest of the petitioner shall remain stayed. It is further clarified that the petitioner will deposit another amount of ₹10,00,000/- on or before 07.07.2018.”

Counsel for the petitioner has submitted that the petitioner has already deposited an amount of Rs.20 lacs as on today and in FAO No.2943 of 2018, the following order was passed on 05.06.2018:-

“This appeal has been filed for setting aside order dated 25.05.2018 passed by the learned Additional District Judge, Jalandhar limited to the extent of imposition of 50% of the penalty amount for restoration of the electricity connection of the appellant. The appellant has further restricted his claim to the extent that he does not challenge the amount/sum of penalty but seeks permission to deposit the amount of 50% of the penalty amount in installments. Notice of motion was issued in this

case while taking note of the appellant's submission.

Learned counsel for the appellants submits that CRM No.M-24762 of 2018 was filed by appellant No.2 (proprietor of appellant No.1-firm) seeking anticipatory bail in FIR No.406 dated 26.04.2018 under Section 135 Electricity Act, 2003, Police Station Anti Power Theft, Jalandhar. Appellant No.2 has undertaken to deposit a sum of ₹10,00,000/- on or before 07.06.2018 and thereafter another sum of ₹10,00,000/- on or before 07.07.2018 towards the amount of penalty.

Appellant No.2 present in Court (duly identified by his counsel), undertakes that 50% of the penalty amount in terms of decision dated 25.05.2018 passed by the learned Additional District Judge, Jalandhar shall be deposited in four monthly installments of ₹10,00,000/- each and the last installment would be of ₹11,14,994/-. Appellant No.2 undertakes to abide by his undertaking in CRM No.M-24762 of 2018. Each installment, it is stated, shall be deposited by the 7th of each month. The first installment of ₹10,00,000/- would be deposited on 07.06.2018.

Learned counsel for the respondents, on instructions from Inderjit Singh, XEN, Jalandhar who is present in Court, submits that there is no objection by the department, in case the appellants abides by the undertaking given by him before this Court as well as in CRM No.M-24762 of 2018. On deposit of the first installment of ₹10,00,000/- on 07.06.2018, the electricity connection shall be restored. However even on a single default in the deposit as above, electricity connection shall be immediately disconnected without any notice.

In view of the specific stand of the respondents, the appellant is permitted to deposit 50% of the penalty in four installments of ₹10,00,000/- each and the fifth installment of ₹11,14,994/- by the seventh of each month.

The first installment shall be deposited on or before 07.06.2018 upon which the electricity connection be restored. However in case of any default on the part of the appellant, the respondents are at liberty to disconnect the same.

With modification as above in order dated 25.05.2018 passed by the learned Additional District Judge, Jalandhar, this appeal is disposed of.”

Counsel appearing for the complainant/PSPCL has not disputed the factual position that an amount of Rs.20 lacs has been paid.

Counsel for the State has also not disputed the aforesaid fact.

In view of the above, this petition is disposed of and the order dated 01.06.2018 is made absolute subject to the conditions envisaged under Section 438(2) Cr.P.C. and in view of the order dated 05.06.2018 passed in FAO No.2943 of 2018, which shall remain binding between the petitioner and respondent No.2.

Liberty is granted to the complainant to move an application for cancellation of bail in case, the petitioner fails to comply with the undertaking given by him.

(ARVIND SINGH SANGWAN)
JUDGE

16.07.2018
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No