

Sr. No.207

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

CRM No. M-6232 of 2018 (O&M)

Date of Decision: 23.03.2018

Mukesh Kumar

... Petitioner

Versus

State of Haryana

... Respondent

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Kartar Singh, Advocate,
for the petitioner.

Mr. Ashish Yadav, Additional A.G., Haryana.

TEJINDER SINGH DHINDSA, J.(ORAL)

Petitioner seeks concession of pre arrest bail in case
FIR No.6401 dated 07.07.2017, under Section 135 of the Electricity
Act, 2003, registered at Police Station Irrigation & Power Hisar,
district Hisar.

Counsel for the parties have been heard.

FIR has been registered on the complaint of SDO
(Operations), Fatehabad City with regard to a mobile tower
having consumed electricity without a regular electricity
connection.

On 15.02.2018 while issuing notice of motion, the
following order was passed by this Court:-

*“Petitioner seeks concession of pre-arrest bail
in case FIR No.6401, dated 07.07.2017, under Section 135
of the Electricity Act, 2003, registered at Police Station*

Irrigation & Power Hissar, District Hissar.

FIR has been registered on the complaint of SDO (Operations), Fatehabad City with regard to a mobile tower having consumed electricity without a regular electricity connection.

Counsel contends that the premises where the mobile tower is located is owned by one Sita Ram. Such premises has been leased out to Vikas Handa and wherein a Tele Communication Company, namely, Wireless T.T. Information Services Limited is carrying on its operations. The present petitioner is only a Peon working under such company and as such, cannot be held responsible for the alleged theft of electricity.

Notice of motion, returnable for 23.03.2018.

In the meanwhile, petitioner is directed to appear before the Investigating Officer and to join investigation.

In the event of arrest, the petitioner shall be released on interim bail subject to satisfaction of the Arresting/Investigating Officer. The petitioner shall join investigation as and when called upon to do so and he shall remain bound by the conditions envisaged under Section 438(2) Cr.P.C.”

Learned State counsel upon instructions from ASI Subhash Chandra submits that petitioner has since joined investigation. However, the prayer for anticipatory bail is vehemently opposed on the ground that even though the present petitioner was an employee in the capacity of a 'Technician' with the Telecommunication Company which was operating the mobile tower but an affidavit has been submitted by the petitioner himself dated 06.07.2017 and in which he has himself deposed that he would be responsible for any illegal use/consumption of

electricity in relation to operation of the tower.

Strangely, it is only on the strength of such affidavit that the Investigating Agency has chosen to shut its eyes towards the officials/owners of the Telecommunication Company. The FIR in question was registered on 07.07.2017 in pursuance to a raid that was conducted in June, 2017. The affidavit relied upon by the prosecution is 06.07.2017 i.e. after the raid was conducted.

Prima facie this Court is satisfied that such an affidavit has been procured from the present petitioner by the Management of the Telecommunication Company only to evade their own liability and to foist the entire blame on an employee.

In the considered view of this Court, petitioner having joined investigation, his custodial interrogation would not be warranted.

Petition is allowed.

Order dated 15.02.2018, passed by this Court is made absolute.

Disposed of.

23.03.2018

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes
No