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*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Judgment delivered on: 03.10.2018

+ CRL.M.C. 4740/2018

MOHD. ASIF

..... Petitioner

versus

THE STATE (GOVT OF NCT OF DELHI) & ANR Respondents

Advocates who appeared in this case:

For the Petitioners: Mr. Kshitiz Mahipal & Mr. Parveen Yadav,
Advocates

For the Respondents: Mr. Kamal Kr. Ghai, APP for the State.
SI Nisar Ahmed
Advocate for BSES-YPL (name not given)

**CORAM:-
HON'BLE MR JUSTICE SANJEEV SACHDEVA**

**JUDGMENT
03.10.2018**

SANJEEV SACHDEVA, J. (ORAL)

Crl.M.A. 32317-18 (Exemption)

Allowed, subject to all just exceptions.

CRL.M.C. 4740/2018

1. Petitioner impugns the bail order dated 23.08.2018 whereby a condition has been imposed on the petitioner to deposit 35% of the

impugned theft assessment bill.

2. Learned counsel for the petitioner submits that the petitioner is the owner of the property and had rented out the same to Mohd. Nadeem and Mohd. Sharif and thereafter physical possession of the premises was with the said tenants and he was not in control of the electricity meter and if there was any tampering or theft of the electricity, since the tenants were in physical possession, they were liable for the same. Thereafter the petitioner approached the Permanent Lok Adalat for settlement, however, the amount of bill being beyond his reach, he could not pay the same. Since the amount was not paid the prosecution continues.

3. Learned counsel for the petitioner submits that despite the name of the tenants being disclosed to the Investigating Officer, the tenants have not been made accused. He further submits that the condition of deposit of 35% of the impugned theft assessment bill is onerous. He further submits that such a condition could not be imposed for grant of bail.

4. Learned counsel appearing for BSES-YPL relies on the judgment of the coordinate bench in “*Sanjit Malik & Anr. Vs. The State (NCT of Delhi) & Ors.*” *ILR (2008) II Delhi 524* to contend that there can be a pre-condition of pre deposit of part of the amount as a pre-condition for grant of bail.

5. Keeping in view the facts and circumstances of the case, the

impugned order dated 23.08.2018 is modified to the extent that the petitioner is directed to deposit 20% of the impugned theft bill within a period of one month from today. The other terms and conditions shall remain the same.

6. The petition is accordingly disposed of in the above terms.

7. Order *Dasti* under the signatures of the Court Master.

OCTOBER 03, 2018
'rs'

SANJEEV SACHDEVA, J



नित्यमेव जयते