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

ANTICIPATORY BAIL APPLICATION NO.1745 OF 2019

Mohammed Wasif Badruddin Shaikh	...Applicant
Versus	
The State of Maharashtra and Anr.	...Respondents

Mr.F.N.Momin a/w Mr.Gautam Jain, for the Applicant.
Mr.V.V.Gangurde, A.P.P for the Respondent - State.
Mr.S.V.Marwadi i/b Mr.N.M.Nadar, for the Respondent No.2.

CORAM : REVATI MOHITE DERE, J.

DATE : 21st AUGUST, 2019

P.C. :

1. Heard learned counsel for the parties.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R.No.II-12 of 2017 registered with the Bhoiwada Police Station, Thane, for the alleged offences punishable under Section 427 of the Indian Penal Code, under Section 138 of the Indian Electricity Act, and under Section 3 of Prevention of Damage to Public Property Act, 1984.

3. Learned Counsel for the applicant submitted that the

allegations as against the applicant are false and baseless. He submitted that there is no theft of electricity as alleged by the complainant. He submitted that the applicant is Mohammed Wasif Badruddin Shaikh and not Mohammed Asif, as mentioned in the complaint.

4. Learned APP as well as learned counsel for the Respondent No.2 oppose the application. Learned Counsel for the Respondent No.2/complainant has filed an affidavit of the Respondent No.2.

5. Perused the papers. The complainant is an Executive Officer working for Torrent Power Limited, which distributes electricity in the Bhiwandi area. The complainant has alleged that on 27th February, 2017, at about 12.15 p.m., he visited House No.280, situated at Karivali, Bhiwandi. He has stated that he found that a cable was illegally connected to mini section pillar of Torrent Power Limited, pursuant to which, he lodged the aforesaid FIR/complaint. It appears that an illegal connection was taken by the accused and by taking the said illegal connection the accused had committed theft of the electricity. It appears that similar cases have been registered earlier, as against the applicant's father i.e. illegal use of

electricity. It appears that the applicant dishonestly used the electricity for his power-loom for his own benefit thereby causing loss to the government exchequer.

6. Considering the nature of allegations, *qua* the applicant, this is not a fit case to grant pre-arrest bail to the applicant. In the facts, the custodial interrogation of the applicant is necessary to find out the *modus operandi* used by the applicant in taking illegal connection of electricity from Torrent Power Limited.

7. Accordingly, the Application for pre-arrest bail is rejected and disposed of as such.

8. It is made clear that the observations made herein are *prima facie* for deciding the aforesaid application and if an application for regular bail is filed, the same shall be considered on its own merits, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.