

THE HON'BLE JUSTICE G.SRI DEVI

Criminal Petition No.2914 of 2019

ORDER:

This Criminal Petition, under Section 438 of the Code of Criminal Procedure, 1973, is filed by the petitioner/accused, for grant of anticipatory bail in the event of his arrest in Crime No.2724 of 2019 of PS, APTS, RR South, pending on the file of the Principal Junior Civil Judge-cum-XIV Additional Metropolitan Magistrate at Cyberabad, registered for the offence punishable under Section 135 of the Electricity Act, 2003.

2. Heard the learned counsel for the petitioner/accused, the learned Additional Public Prosecutor representing the respondent-State and perused the record.

3. The case of the prosecution, in brief, is that the de-facto complainant is working as AAE/II/DPE in Electricity department. On a complaint received from SE/DPE and upon oral instructions, the de-facto complainant, along with the ADE, inspected M/s.Kamal Ice Manufacturing Industries at premises bearing H.No.8-13-96/3, Beside Moin Function Hall, Shivarampally, Hyderabad, having electricity Service Connection No.340302452 with USC No.102708724. The petitioner/accused is the owner of the said premises. Upon inspection, the de-facto complaint noticed that a service wire removed from the electricity meter bearing SC No.340306304 was kept idle and arrange for cut out directly to change over the Ice Plant load point. The idle meter SC No.340306304 belongs to the adjacent shed, which was previously being used for plastic industry.

Apprehending direct tapping of LT OH Line service meter bearing SC No.340306304, a complaint was lodged on 23.05.2019. Basing upon the said complaint lodged by the de-facto complainant, a case in Crime No.2724 of 2019 of PS, APTS RR South, pending on the file of the Principal Junior Civil Judge-cum-XIV Additional Metropolitan Magistrate at Cyberabad, was registered against the petitioner/accused for the offence punishable under Section 135 of the Electricity Act, 2003.

4. The learned counsel for the petitioner/accused would submit that the subject crime has been registered in a mechanical manner, without application of mind and for statistical purpose. The petitioner/accused is not running the Ice manufacturing industry by himself and has leased out the subject premises to one Mohd.Moin Quraishi and as such, the petitioner/accused is not involved in the alleged theft of electricity. But however, his name is shown as beneficiary, as he is the owner of the subject premises and the subject electricity meter stands in his name. Section 154 of the Electricity Act, 2003, permits compounding the offence under Section 135 of the said Act, if the same is first offence. The subject criminal case is registered against the petitioner/accused without extending an opportunity to compound the offence. M/s.Kamal Ice Manufacturing Industry is in existence for the past thirty years and no crime is registered against it ever in the past. The petitioner/accused is facing a civil liability, which has been provisionally assessed at Rs.47,90,413/- towards electricity consumption charges. The petitioner/accused has got substantial case to defend himself and has got fair chances of success. The petitioner/accused is the sole

breadwinner for his family and he has nothing to do with the alleged theft of electricity and ultimately prayed to grant anticipatory bail to the petitioner/accused under Section 438 of Cr.P.C.

5. The learned Additional Public Prosecutor vehemently opposed for grant of anticipatory bail to the petitioner/accused contending that the electricity meter was tampered and that the electricity department has assessed the provisional loss to the department to a tune of Rs.47,90,413/-.

6. Admittedly, the loss estimated by the electricity department for the alleged illegal act committed by the petitioner/accused is huge, i.e., to a tune of Rs.47,90,413/-. The gravity of offence is high. A full-fledged trial is required to prove the guilt or innocence of the petitioner/accused. Looking into the nature of accusations levelled against the petitioner/accused, I am not inclined to grant anticipatory bail to the petitioner/accused at this stage. However, if the petitioner/accused surrenders before the Court below and moves an application for bail, the Court below shall decide the said application, on the same day, on merits and in accordance with law, without being influenced by any of the observations made *supra*.

7. With the above observation, the Criminal Petition is dismissed.

Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

17th June, 2019
Bvv

JUSTICE G.SRI DEVI