

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Through Video Conferencing)**

CRM-M No.21434 of 2020
Date of Decision: 04.08.2020

Paramjeet Kaur

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MS. JUSTICE NIRMALJIT KAUR

Present: Mr. Manu K.Bhandari, Advocate, for the petitioner.

Mr. Deepak Sabharwal, Addl. Advocate General, Haryana.

NIRMALJIT KAUR, J. (ORAL)

The present petition is filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in case FIR No.934 dated 22.06.2020 under Section 135 of Electricity Act, 2003 registered at Police Station Irrigation and Power Ambala.

Learned counsel for the petitioner has pointed out the instructions No. 4.3 of the Sales Manual framed by the Uttar Haryana Bijli Vitran Nitam Ltd. under the Electricity Act, 2003, which provides that for meter checking as per the said Regulation “ Seasonal Industries such as Ice Factories, Ice Candies, Cold Storage units, Cotton Ginning Mills and Rice Shellers shall be checked twice during the season i.e. at least once every three months”. In pursuance to the said instructions, the factory .was checked on 16.10.2019 and thereafter on 05.06.2020 and on 05.06.2020 itself the meter of the petitioner was replaced by the official of UHBVN, whereas, the FIR was registered on 19.6.2020. Thus, if at all, the penalty has to be levied, it can only be recovered for the period from 05.06.2020 to 19.06.2020. In case, the petitioner was found committing the electricity theft before 5.6.2020, then the FIR would have been registered on 16.10.2019 or on 5.6.2020, when the responders came for checking.

The fact that the FIR was registered on 19.6.2020 shows that there were no allegations of theft prior to 5.6.2020 when the meter was replaced.

Learned counsel for the complainant on the other hand submitted that the petitioner had filed a civil suit against the penalty of Rs.1,38,87,539/- imposed upon him. The petitioner was directed by the trial Court to deposit atleast 50% of the amount of penalty as assessed and even the appeal against the said order has been dismissed. Therefore, in any case, it is evident that the entire dispute is now before the Civil Court.

In these circumstances, the assessment if at all, is a subject matter of the said civil dispute.

In view of the above, the petitioner is directed to join investigation and in the event of arrest, he be released on anticipatory bail subject to his furnishing personal bonds and surety to the satisfaction of Arresting/Investigating Officer. However, the petitioner shall continue to join the investigation as and when called upon to do so and shall abide by the conditions as provided under Section 438(2) Cr.P.C.

In case, the petitioner does not join the investigation or does not cooperate in the investigation, the respondent/State shall be at liberty to file an application for cancellation of his anticipatory bail.

04.08.2020
sandeep

(NIRMALJIT KAUR)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No