

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.16252 of 2021**

Arising Out of PS. Case No.-505 Year-2013 Thana- RUNISAIDPUR District- Sitamarhi

RAKESH KUMAR @ RAKESH RAI, S/O SURESH RAI, R/o village and
P.O. and P.S.- Runnisaidpur, District- Sitamarhi Petitioner
Versus

1. The State of Bihar
2. North Bihar Power Distribution Company Ltd. through the Assistant Electrical Engineer, Electric Supply Sub-Division, Runnisaidpur, District- Sitamarhi, Bihar
... .. Opposite Parties

Appearance :

For the Petitioner/s :	Mr. Vikram Deo Singh, Advocate Mr. Pushpendra Kumar Singh, Advocate
For the Opposite Party/s :	Mr. Uday Chand Prasad, A.P.P.
For the Power Company :	Mr. Vinay Kirti Singh, Sr. Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 23-09-2021 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner, learned Senior Counsel for the North Bihar Power Company Limited and Mr. Uday Chand Prasad, learned A.P.P. for the State.

Petitioner in the present case is seeking regular bail in connection with Runnisaidpur P.S. Case No. 505 of 2013 registered for the offence punishable under Section 135 of the Electricity Act. He is in custody since 26.09.2020. The petitioner has otherwise no criminal antecedent.

As per the prosecution story, the officers of the Power

Company conducted a raid and they found that the petitioner was operating a generator set and was supplying electricity to his consumers after taking the electricity from L.T. Pole by wire. During course of raid about 29 meters of PVC aluminium wire was seized. The informant has alleged that the Power Company has suffered a loss of Rs. 8,19,237/-.

Learned counsel for the petitioner submits that the entire allegations are false and baseless. It is difficult to understand that if there was no electricity for the shopkeepers, the petitioner cannot be said to be involved in running the generator set with the help of electricity. No generator set had been seized in this case and the alleged seizure of 29 meters of aluminium wire is not a clinching material to take away the presumption of innocence from the petitioner.

Learned counsel submits that the petitioner is a very poor person. He is a MANREGA worker and in this regard a job card has been referred to on behalf of the petitioner. The categorical submission is that if the Power Company will insist to deposit the amount as a condition for grant of bail, the petitioner would not be in a position to pay any amount as condition for grant of bail because he does not have any money to fulfill such conditions.

As regards the delay in surrendering before the learned court below, learned counsel submits that although his prayer for anticipatory bail was rejected earlier but the Police had not obtained any warrant of arrest against him and the investigation has remained pending for about four years ultimately when the chargesheet was filed on 20.09.2020 the petitioner surrendered on his own on 26.09.2020, therefore, no fault may be found against the petitioner on this score.

Mr. Vinay Kirti Singh, learned Senior Counsel for the Power Company has opposed the prayer for regular bail of the petitioner. Learned Senior Counsel submits that the petitioner may be directed to deposit at least half of the amount for purpose of bail. At the same time, learned Senior Counsel informs this Court that under Section 135 of the Electricity Act the maximum punishment prescribed is three years and the petitioner has remained in jail for a little over one year after his surrender.

Mr. Uday Chand Prasad, learned A.P.P. for the State has also opposed the prayer for regular bail of the petitioner.

Considering the facts and circumstances of the case, taking note of the submission that the petitioner is a MANREGA worker which he has *prima-facie* shown from

Annexure '2' to the present application and further that he has remained in jail for over one year in connection with this case in which the maximum punishment prescribed is three years, this Court is inclined to direct release of the petitioner above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Sitamarhi in connection with Runnisaipur P.S. Case No. 505 of 2013, subject to the condition as laid down under Section 437 (3) Cr.P.C.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.