

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

ANTICIPATORY BAIL APPLICATION NO. 2153 OF 2021

1. Ashokkumar Valchand Jain
2. Abhishek Ashok Jain ... Applicants

Versus

The State of Maharashtra ... Respondent

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Mr. Kapil Dave, Advocate for the Applicants.

Mr. Y. Y. Dabake, APP for the Respondent – State.

Mr. R. Jadhav (P. I.) Chembur Police Station, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 13th SEPTEMBER, 2021.

PER COURT:

1. Leave to amend the prayer clause of the application to alter the FIR/C.R. No. 26 of 2021 as L.A.C. No. 26 of 2021. Amendment may be carried out forthwith.

2. The applicants are apprehending arrest in LAC No. 26 of 2021 registered with Chembur Police Station, Mumbai for offences under Sections 138 & 139 of the Electricity Act. The FIR was lodged on 2nd August, 2021. It is alleged that applicant No.1 being owner of shop No.12, at Sunder Cooperative Housing Society had made application for disconnecting electricity meter. The

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officer of complainants company was sent to premises for removing electricity meter. It was removed in presence of owner of gala. The tenant was given notice about it. The tenant had quarrelled with officer. The tenant visited office of complainant and represented that he is conducting medical shop which is essential service and he has executed leave and license agreement with owner and there are no pending dues towards rent and hence electric meter may be installed. Thereafter, meter was re-installed. The owner was not given intimation about it. On 30th June, 2021 the tenant Padmasinh informed that at the instance of applicant No.1 the meter is removed by applicant No.2 and electrician. The staff of complainant visited the spot and noticed that electricity meter is missing.

3. The applicants contend that they are conducting their business in the name and style as Shree Sorabh Jewellers from the shop situated at Shop No.2, Chembur (East) Mumbai. The applicant No.1 is the owner of the shop No.12 situated at Shree Sundar Co-operative Housing Society. The said premises was decided to be let out on leave and license. The applicants entered into leave and license agreement with Padamsinh on 6th August, 2021. License fee from January 2021 was not paid. In spite of

insisting for payment of rental charges to the applicants, the licensee had failed to do so. Applicant No.1 issued notice of termination of agreement to licensee. He was neither handing over the possession nor making any payment towards the license fees. The applicants decided to handover the electricity meter to Adani Electricity. The work of handing over and removal of the electricity meter was entrusted to one Nagesh Kharat. The connection was disconnected on 29th June, 2021. Latter on it was noticed that electricity was operative in shop premises. Enquiry was made with electricity company. Location was showed to them. One Lalsingh assaulted contractor. Police came to the spot. The applicants filed complaint against licensee. The reply was received that dispute is of civil nature. The allegations in FIR are false. Statement of Nagesh Kharat mentions that electric meter is taken away by some other person. The licensee had restored the electricity meter without the knowledge of the applicants. The allegations in FIR are concocted. FIR has been registered under influence of licensee, who was neither paying the license fees nor handing over the possession. There is no reason for the applicants to commit theft of electricity meter. The applicants are businessmen. There are no criminal antecedents against them.

4. Learned APP submitted that electricity meter belongs to Adani Electricity. The accused have no authority to remove the electricity meter. Custodial interrogation of the applicants is required.

5. I have perused the documents and investigation papers. There is dispute between applicants and licensee. The applicants had requested complainant to remove electricity meter. On 29th June, 2021 the meter was disconnected. This was done in presence of accused. The FIR mentions that the owners and licensee were intimated about it the licensee. Thereafter, the licensee requested for restoration of electricity and the same was restored. The complainant has stated that intimation about it, was not given to the owner. It appears from the statement of Nagesh Kharat recorded by the Assistant Commissioner Police that he is working part time for Adani electricity. Applicant No.1 had requested that electricity meter be disconnected. Form in that regard was filled up. After completing formalities the staff of Adani electricity disconnected meter on 29th June, 2021 at about 4.30 p.m. in presence of applicants. At 7.00 p.m. applicant No.2 called him and told him that electricity is operative in the premises. He made enquiry with contractor. He told him that he would verify by

sending person. Applicant No.1 sent his person to show electricity meter. Sultan was sent by Ahmed. Meter was found at premises. Applicant No.1 enquired whether permission is granted to restore meter. He was informed that no such permission is granted. It was noticed that meter was installed without permissions of owner. Under the belief that meter was installed illegally, sultan removed it. Some persons came to the spot and started quarreling with person of applicants and assaulted them. One of them snatched electricity meter from Sultan. It is apparent that electricity meter was disconnected officially on 29th June, 2020. It was allegedly restored without knowledge of owner and ultimately taken away by some other person. It appears from investigation papers that licensee is not cooperating with investigation. It is not the case of the prosecution that the co-accused has handed over the electricity meter to the applicants. Considering the nature of dispute, custodial interrogation of the applicants is not necessary.

6. Hence, I pass the following order:

ORDER

- (i) Anticipatory Bail Application No.2153 of 2021 is allowed;
- (ii) In the event of arrest of the applicants in connection with in LAC No. 26 of 2021 registered with Chembur Police

Station, Mumbai the applicants be released on bail on furnishing P. R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

(iii) The applicants shall attend the investigating officer on 21st, 22nd & 23rd September, 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for till filing of charge-sheet.

(iv) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)