

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

207

CRM-M-29497-2020

Date of Decision : September 13, 2021

MUNISH KUMAR GUPTA

.....Petitioner

VERSUS

STATE OF PUNJAB AND ANR

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Harjinder Singh, Advocate
for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

Mr. Parminder Singh, Advocate
for respondent No.2.

Through Video Conferencing

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in FIR No.1728 dated 12.12.2017 registered under Section 135 of the Electricity Act, 2003 at Police Station Anti Power Theft, Ludhiana, District Ludhiana.

The present FIR was lodged against the petitioner on the ground of theft of electricity and thereafter, the petitioner had applied for anticipatory bail before the learned Addl. Sessions Judge, Ludhiana who imposed the condition of pre-deposit of 50% of the theft amount. Thereafter, the petitioner although joined investigation with the police, but could not deposit the 50% of the condition as imposed by the learned

Additional Sessions Judge, Ludhiana and, therefore, bail application was dismissed. Thereafter, he again filed application for anticipatory bail before the learned Additional Sessions Judge, Ludhiana which was dismissed on the ground that earlier also the petitioner had filed an application, but did not deposit the 50% of the theft amount. It was thereafter, that the present petition for anticipatory bail was filed by the petitioner in this Court.

It was contended by the learned counsel for the petitioner that the onerous condition of 50% could not be imposed by the Court in view of law settled by the Hon'ble Supreme Court in **Sumit Mehta Vs. State of NCT of Delhi**, 2013 (15) SCC 570 and also in **Dalip Singh Vs. State of Madhya Pradesh and another**, 2021(1) RCR (Criminal) 585. He submitted that although at one stage he had volunteered to deposit 25% of the amount and he was granted interim protection by this Court, but thereafter, he met with an accident and he cannot afford to deposit the said 25% due to his medical condition. He has submitted that such a condition cannot be imposed in view of the law laid down by the Hon'ble Supreme Court. He further submitted that even otherwise also the matter with regard to ascertainment of any amount recoverable from the petitioner due to alleged theft was to be decided by the learned Special Court in accordance with Section 146 of the Electricity Act and the police cannot become recovery agent for the purpose of recovery of the amount and even the Court cannot impose any such onerous condition of pre-deposit.

Mr. Parminder Singh, Advocate, learned counsel for the respondent No.2-Electricity Board has submitted that so far as the proposition of law pertaining to the imposition of onerous condition of pre-deposit of 50% is concerned, the same has now been well settled by the Hon'ble Supreme Court. He has, however, submitted that it was a case of theft of energy.

Mr. Randhir Singh Thind, learned DAG, Punjab has, however, submitted on instructions from SI Narinder Singh that now in pursuance of the order passed by this Court on 24.09.2020 vide which the petitioner was granted interim protection subject to joining of investigation, the petitioner has now joined the investigation and he has fully co-operated with the investigation process and he is not required for custodial investigation.

After hearing the learned counsel for the parties especially the stand taken by the learned State counsel that the petitioner is not required for custodial investigation, the present petition is allowed and order dated 24.09.2020 is, hereby, made absolute.

September 13, 2021
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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No