

**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-34186-2020 (O&M)
Date of Decision:- 22.2.2021

Jitender

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Manoj Kumar Sood, Advocate, for the petitioner.

Ms. Sheenu Sura, DAG, Haryana,
assisted by ACP Moji Ram.

(Proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case registered vide FIR No.108, dated 28.7.2020, Police Station Bhupani, District Faridabad, under Sections 135, 136 and 137 of Electricity Act, 2003; Sections 463, 204 and 120-B IPC and Sections 7 and 8 of Prevention of Corruption Act, 1988.
2. The FIR was lodged at the instance of Kuldeep Mor, XEN. The allegation, in nutshell are that electricity connection bearing No. F-15-MH210303 was issued to Pardeep Tyagi for 15 KW load which could be catered through 25 KVA transformer. However, the

abovesaid transformer had been unauthorizedly and illegally changed to 100 KVA transformer. It was done to increase the transformer capacity to enable increased supply and consequently increased theft of electricity. Meaning thereby, replacement of transformer was done to facilitate the electricity theft and the aforesaid illegal act was done by Pardeep Tyagi in connivance with the then SDO Sandeep Kundu, JE Nishant Rohila, JE/F Jitender Singh, Devi Ram and Kanhiya Lal outsourced ALMs and other unknown employees. This fact was revealed when a raid was conducted on 16.7.2020. It is further alleged that to hatch the conspiracy, the estimate was got prepared by Pardeep Tyagi in connivance with other co-accused of ₹1,96,350/- and the same was deliberately restricted to below ₹2 lacs. Relevant record has also been removed/destroyed from the office. It is further alleged that Pardeep Tyagi and other co-accused persons connived and got parallel alien distribution network installed and connected the same with HT line installed by DHBVN. Certain more allegations were also levelled in by the complaint and on these allegations the present FIR was registered.

3. Learned counsel for the petitioner has submitted that the entire racket of installation of a transformer of a bigger capacity unauthorizedly was got done by the main accused namely Pardeep Tyagi in connivance with the then SDO Sandeep Kundu, JE Nishant Rohila as the estimate in question had been prepared by JE Nishant Rohila and the connection had been sanctioned by SDO Sandeep Kundu. It has been submitted that the petitioner was never involved in the said

process and cannot be attributed any role in the alleged theft of electricity by Pardeep Tyagi who had been receiving huge amounts from persons to whom he was further supplying the electricity illegally. It has been submitted that the petitioner remained posted as JE, Bhaskola Feeder Sub Division, Kheri Kalan w.e.f. 26.11.2015 to 7.6.2018 and subsequently w.e.f. 25.5.2019 to July, 2020 and that he had not detected any theft during the said period. It has further been submitted that since the main accused i.e. Pardeep Tyagi has already been granted bail, the present petitioner also deserves the same concession on the grounds of parity.

4. Opposing the petition, the learned State counsel has submitted that not only the petitioner is specifically named in the FIR, lodged at the instance of Sh. Kuldeep Mor, XEN, DHBVN, Faridabad, but it is specifically alleged that the petitioner in connivance with other co-accused including other officials of the Electricity Board had illegally and unauthorizedly changed the transformer in question which was of 25 KVA to a transformer of a greater capacity of 100 KVA. Learned State counsel has submitted that it was a racket being run by Pardeep Tyagi in connivance with officials of DHBVN wherein by way of unauthorized augmenting the load of transformer he had been supplying electricity to premises situated beyond the jurisdiction of DHBVN and which were in fact in the neighbouring State Uttar Pradesh and Pardeep Tyagi used to charge money from them. It has further been submitted that the petitioner had also played an active role in destruction of evidence while moving under ground 11 KV

Cable. Learned State counsel has further submitted that from the records of DHBVN it is borne out that a 63 KVA transformer was issued in the name of JE Nishant which was supposed to be installed in the premises of Smt. Jay Shree in the area of Kutta Farm, Dheeraj Nagar, Greater Faridabad, whereas the same was installed in the premises of main accused Pardeep Tyagi in connivance with the petitioner and other co-accused. Learned State counsel has further pointed out that although the racket of unauthorized supply of electricity was going on since long and during this period the petitioner also remained posted there but he intentionally chose to remain silent and never made any complaint in respect of the illegal theft of energy and theft of power as he was also benefiting from the same by taking bribes. Learned State counsel has submitted that the name of the petitioner also figures in the disclosure statement made by main accused Pardeep Tyagi and that his connivance is apparent from the fact that while preparing an estimate he deliberately prepared the same for an amount less than ₹2 lakhs as an estimate of less than ₹2 lakhs would fall in his domain.

5. I have considered rival submissions addressed before this Court.
6. It is a case of colossal theft of electricity right under the nose of the officials of DHBVN. The scale of theft can be gauged from the fact that the main accused Pardeep Tyagi, after getting a bigger transformer of augmented capacity installed unauthorizedly, had been further supplying electricity even beyond the State i.e. in Uttar Pradesh. A racket of this extent could not have possibly been put in

place without active connivance of the officials of DHBVN. The petitioner despite having remained posted for a substantial period during which the theft had been going on, never pointed out any irregularity. No doubt Pardeep Tyagi has been granted bail but he was granted regular bail after having spent a substantial time behind bars and after having deposited an amount in excess of Rs.1 crore. The petitioner cannot derive any benefit from the said order. No special case for grant of anticipatory bail is made out. The petition is sans any merit and is hereby dismissed.

February 22, 2021

mohan

(GURVINDER SINGH GILL)
JUDGE

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No