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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

921 ANTICIPATORY BAIL APPLICATION NO.636 OF 2022

MANOJ SUBHASH PATIL
VERSUS
THE STATE OF MAHARASHTRA

Mr. Chaitanya C. Deshpande, Advocate for applicant;
Mr. V.S. Badakh, A.P.P. for respondent

CORAM : S. G. MEHARE, J.

DATE : 21st June, 2022

PC.

1. Heard the learned Counsel for the applicant and the learned A.P.P. for the respondent.

2. It is alleged in the first information report that on 19.4.2022, the informant got the confidential information that the applicant was committing theft of electricity by applying a hook to the electricity line and using the electric power for the purpose of construction of the house. On visiting the construction site, it was revealed that the applicant was using the electricity for the construction of a house by applying a hook with a 30 ft. black colour cable directly to the electric line. It is further alleged that in such a way, the applicant has committed theft of electricity power of 2793 units worth Rs.64,530/- for a period of one year and thus committed an offence punishable under Section 152 of the Electricity Act.

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3. Learned Counsel appearing on behalf of the applicant would submit that the applicant has not committed any offence as alleged or otherwise. He would submit that the applicant has no concern with the construction site where the electricity power was allegedly stolen. The owner of the said site is Smt. Rekha Karma Gavit. He has placed on record the copy of construction permission. Since he was not the owner of the said construction site, he cannot be held responsible for the alleged theft. He would further submit that an illegal electricity bill has been prepared in his name. He submits that the applicant has been falsely implicated in the offence to achieve the target of cases of electricity theft given to the informant. He, therefore, prays that the applicant may be enlarged on pre-arrest bail.

4. Per contra, the learned A.P.P. would submit that the custodial interrogation of the applicant is necessary in order to investigate further theft of electricity. There is prima facie material available to infer that the applicant is involved in the commission of the theft of electricity. He would further submit that commission of theft of electricity is on the rise. Such a person should not be protected from arrest. This is not a fit case to enlarge the applicant on pre-arrest bail. Thus, he prays to dismiss the application.

5. Upon hearing the learned Counsel for the parties and on

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perusal of the material available on record, it is clear that there is evidence of the commission of theft of electricity power by applying a hook to the electricity line. In the raid conducted by the informant and others, it is transpired that the applicant was a contractor and was constructing the house. The question that the learned Counsel for the applicant has raised is whether a person other than the owner of the property be held responsible for the theft of electricity? Section 135 of the Electricity Act 2003 speaks of the theft of electricity. The said section opens with the word "Whoever". The term whoever covers any person who dishonestly makes any connection with overhead etc., to extract or consume or use electricity is theft of electricity and liable to be punished. The investigating officer has a specific case where the applicant was doing the construction as a contractor. This factum gives rise to the presumption that the construction was under his control and supervision. The Officers have taken action on the confidential information. Reading section 135 of the Electricity Act, in no doubt, the word "whoever" is not restricted to the owner of the property where the alleged theft is committed. The word "whoever" includes the person other than the owner of the land where the theft of electricity is committed. The investigation Officer prima facie has collected the material against the applicant. The defence raised by the applicant does not build confidence. Learned A.P.P. is right in submitting that the interrogation as regards further theft of electricity is required to be made, and for that

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purpose, the custody of the applicant is necessary.

6. Having regard to the aforesaid discussion and since there is prima facie material available against the applicant in relation to the commission of theft of electricity, this Court is not inclined to grant pre-arrest bail to the applicant. Thus, the application stands dismissed.

7. At this stage, learned Counsel appearing on behalf of the applicant prays for the continuation of the interim protection granted by this Court for a period of four weeks. At the request of the learned Counsel for the applicant, the interim protection granted by this Court on 19.5.2022 to the applicant will be continued for four weeks from today.

(S. G. MEHARE, J.)

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