

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

CRM-M-12122-2022
Date of Decision: 29.08.2022

Jagbeer Singh

....Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Vipin Pal Yadav, Advocate and
Ms. Manju Yadav, Advocate, for the petitioner.

Mr. Ashok Chaudhary, Addl. AG, Haryana.

Mr. Vivek Saini, Advocate, for respondent No.2.

HARNARESH SINGH GILL, J.

By way of the present second petition, the petitioner seeks grant of anticipatory bail in case bearing FIR No. 4885 dated 09.11.2021 registered at Police Station Power and Irrigation, Sushant Lok-I, Gurugram, District Gurugram, under Section 135 of the Electricity Act, 2003.

Short replies filed by respondent No.2 and the State, are is taken on record.

Learned counsel for the petitioner contends that the petitioner was having an electric connection for LT purpose with a sanctioned load of 45 KW for running of the Ice Factory and another connection in the name of his son, Manish Yadav, for the domestic purpose, with sanctioned load of 10 KW. It is further contended that during Pandemic, the Ice Factory was closed and accordingly, after having cleared the entire dues, the

connection was also surrendered and that thereafter, a new electricity meter was installed for the said Ice Factory on 26.04.2021, but there was no consumption of the electricity from the said connection.

It is yet further submitted that on 25.10.2021, the officials of the DHBVNL, visited the premises of the Ice Factory, but found nothing wrong; that they however, removed the electricity meter of the Ice factory and vide LL-I checking report (Annexure P-2), the petitioner was accused of having found using Domestic Supply/load in the Ice factory through the meter installed at the residential plot. It is further submitted that the imposition of penalty against 44.194 KWH is incomprehensible, especially when the supply load was found as 2.648 KWH; that such a huge supply of 44.194 KWH would not all be possible through a domestic connection having the sanctioned load of 10 KWH and thus, the impugned FIR has been registered on totally wrong notion of alleged theft of electricity.

It is further submitted that learned Additional Judge, Gurugram, vide order dated 07.12.2021, while granting interim bail to the petitioner, had directed the deposit of 50% of the penalty amount of Rs.33,91,017/- and when the petitioner did not comply with the said order, vide a subsequent order dated 16.12.2021 passed by the said Court itself, the bail application was dismissed. It is submitted that the said condition of deposit of 50% of the penalty amount, being in onerous in nature, was totally unjustified and if the said condition is allowed to sustain,

it would amount to holding the petitioner guilty even before conclusion of the trial.

On the other hand, the learned State counsel and the counsel for respondent No.2 would vehemently contend that the factory premises of the petitioner was raided by the team of the DHBVNL and a direct cable 4 core 16 Sq mm was found connecting the domestic electricity supply to the commercial meter; that on checking, partial load was found to be operating on that cable; that the checking was done in the presence of the petitioner and his son Manish Yadav and that the entire process was videographed.

I have heard learned counsel for the parties.

It is a case, in which the petitioner was found to have been committing theft of electricity, inasmuch as the provision of supply from a domestic meter to the commercial meter, was made. As stated by the counsel for the respondents, the entire process of checking of electricity meters at the premises of the petitioner, done in the presence of the petitioner and his son Manish Yadav, had been videographed. The contention of the petitioner that the penalty was charged for a higher KWH cannot be gone into by this Court at this stage.

Even otherwise, the learned Additional Sessions Judge, Gurugram, had, vide order dated 07.12.2021, granted the concession of bail to the petitioner, subject to the deposit of 50% of the penalty amount, but when the petitioner failed to comply with the said condition, the bail application of the

petitioner was dismissed by the said Court vide order dated 16.12.2021.

Having not complied with the order of deposit of 50% of the penalty order, it is not open to the petitioner, to seek the concession of the bail. The petitioner's challenge to the penalty amount of Rs.33,91,017/- cannot be gone into nor any indulgence be granted to that, as the same can be decided by way of evidence before the trial Court.

In view of the above, no ground is made out to grant the concession of anticipatory bail to the petitioner.

Dismissed.

29.08.2022
ds

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No