

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

**CRM-M-13833-2023
Date of Decision: 20.04.2023**

Sandeep Kumar

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

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

Mr. Ram Kumar Singla, DAG, Haryana.

HARSH BUNGER J. (ORAL)

Prayer in the present petition, filed under Section 439 of the Code of Criminal Procedure, is for grant of regular bail to the petitioner in case FIR No.217 dated 23.07.2022, under Section 136 of the Electricity Act, at Police Station Ismailabad, District Kurukshetra.

2. Custody certificate dated 19.04.2023 of the petitioner is filed by the learned State counsel in Court today and the same is taken on record, subject to all just exceptions.

3. Brief facts of this case are that during the intervening night of 17.07.2022/18.07.2022, ACSR 100mm², 840 Mtr 11 KV Thaska AP feeder amounting to Rs.70249/- has been stolen by some unknown persons.

Accordingly, the present FIR was registered.

4. During investigation, petitioner and co-accused were arrested on 23.08.2022 and 23 Kg and 800 grams of aluminium wire has been allegedly recovered from the possession of petitioner and co-accused.

5. Petitioner applied for regular bail, however, the same was dismissed by the Court of learned Additional Sessions Judge-cum-Judge, Special Court, Kurukshetra vide order dated 10.11.2022. Accordingly, present petition has been filed before this Court under Section 439 Cr.P.C. for regular bail.

6. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. Learned counsel submits that the petitioner was not named in the present FIR, moreover, there is no direct or indirect evidence which connects the petitioner with the commission of the alleged offence. It is submitted that the FIR was registered on 23.07.2022 and petitioner and co-accused were arrested on 23.08.2022. It is stated that no recovery has been effected from the petitioner. Learned counsel submits that the petitioner has been in custody since 23.08.2022, the investigation of this case is complete and challan has already been presented against the petitioner. Learned counsel next submits that the trial would take some time and the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court; accordingly prayer for grant of regular bail is made.

7. Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness of the offence and also submits that the petitioner is involved in four other cases, however, it is not disputed that the petitioner has been in custody for seven months and twenty-six days (as

on 19.04.2023) and challan has already been presented.

8. I have heard learned counsel for the parties and perused the paper book as well as custody certificate filed by learned State counsel, in Court today.

9. A perusal of the FIR would reveal that the petitioner (Vikram Kumar) has been booked for offence under Section 136 of the Electricity Act and in this regard Section 136 of the Electricity Act, which reads as under:

“Section 136. (Theft of electric lines and materials):

(1) Whoever, dishonestly--

(a) cuts or removes or takes away or transfers any electric line, material or meter from a tower, pole, any other installation or place of installation or any other place, or site where it may be rightfully or lawfully stored, deposited, kept, stocked, situated or located including during transportation, without the consent of the licensee or the owner, as the case may be, whether or not the act is done for profit or gain; or

(b) stores, possesses or otherwise keeps in his premises, custody or control, any electric line, material or meter without the consent of the owner, whether or not the act is committed for profit or gain: or loads, carries, or moves from one place to another any electric line, material or meter without the consent of its owner, whether or not the act is done for profit or gain,

(c) is said to have committed an offence of theft of electric lines and materials, and shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(2) If a person, having been convicted of an offence punishable under sub- section (1) is again guilty of an offence punishable under that sub-section, he shall be punishable for the second or subsequent offence for a term of imprisonment which shall not be less than six months but which may extend to five years and shall also be liable to fine which shall not be less than ten thousand rupees.”

A perusal of abovesaid provision would indicate that the first

offence under Section 136 of Electricity Act is punishable with imprisonment for a term which may extend to three years or fine or with both and for second and subsequent offence, the person shall be punishable for a term which shall not be less than six months but may extend to five years and shall also be liable to fine which shall not be less than Rs.10,000/-.

10. In this case, the petitioner has been in custody for more than seven months and challan has already been presented. The trial is likely to take long time and no useful purpose would be served by keeping the petitioner behind the bars for indefinite period.

11. Keeping in view the aforementioned circumstances, the instant petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the Trial Court/Illaq Magistrate/Duty Magistrate concerned. However, the concerned Station House Officer shall be informed about the release of petitioner and the petitioner shall inform the concerned Station House Officer about his address at which he intends to reside during the pendency of case and any change in the address shall also be communicated to the concerned Station House Officer, forthwith. The petitioner would also furnish his telephone number to the concerned Station House Officer. He would also furnish his undertaking to the effect that he will not indulge in any illegal activity, during the pendency of the trial.

12. The petitioner shall appear before the police station concerned on first Monday of every month till the conclusion of the trial.

13. In addition, the petitioner (or any one on his behalf) shall prepare an FDR in the sum of Rs.25,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law, in case of

the absence of the petitioner from trial without sufficient cause.

14. Nothing expressed hereinabove shall be construed to be an observation on merits of the case and the facts and circumstances recorded above are only for consideration of the prayer for bail at this stage.

15. The petition is accordingly disposed of.

20.04.2023
Himani

(HARSH BUNGER)
JUDGE

- 1. Whether speaking/reasoned : Yes/No
- 2. Whether reportable : Yes/No